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Senate

The Senate met at 9:33 a.m. and was called to order by the Honorable HARRY REID, a Senator from the State of Nevada.

PRAYER

The PRESIDING OFFICER. This morning's prayer will be given by guest Chaplain Rev. Sharron Dinnie, rector of St. Peter and St. Paul Anglican Church, Spring, South Africa.

The guest Chaplain offered the following prayer:

Let us pray.

Holy and gracious God, we rejoice in the life You have given us in this new day. As these Senators look to You in seeking to carry out that to which You have called them, we ask that You would guide and strengthen them. Keep them mindful of this country's heritage and help them strive to preserve its integrity. Lead them as they seek to discern that which has outlived its usefulness and appropriateness within the changes of society and give them boldness to work toward changes that will lead to life and growth.

Grant this Senate grace so to align its will with Yours, that through this body, Your vision and purpose for this Nation and for the world may be accomplished. Amen.

PLEDGE OF ALLEGIANCE

The Honorable HARRY REID led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The bill clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, April 22, 2010.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable HARRY REID, a Senator from the State of Nevada, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. REID thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDING OFFICER (Mrs. GILLIBRAND). The majority leader is recognized.

SCHEDULE

Mr. REID. Madam President, following leader remarks, the Senate will be in a period of morning business for an hour, with Senators permitted to speak for up to 10 minutes each during that period of time. The Republicans will control the first 30 minutes and the majority will control the final 30 minutes. Following morning business, the Senate will turn to executive session to debate the nomination of Denny Chin to be U.S. circuit judge for the Second Circuit. There will be an hour for debate prior to a vote on confirmation of the nomination.

EARTH DAY

Mr. REID. Madam President, today is the 40th anniversary of Earth Day. It is an annual reminder of what we have the power and responsibility to do in our daily lives. It is a call to recommit ourselves to finding the right balance that preserves our larger environment even as we live in it and use it. Earth Day is also an opportunity for us to appreciate the great outdoors, spaces that are nowhere more beautiful than in Nevada.

But today, of course, is not the only day to do this. That is why I am happy to have supported a number of environmental initiatives over the past years to benefit my State and our country: protecting more than 3 million acres of key wildlife habitat as wilderness in the State of Nevada; introducing legislation that created the Great Basin National Park; providing more resources and better management for popular areas such as Red Rock Canyon and Black Rock Desert; enhancing the Carson River corridor and improving management of the Sierra Foothills, and expanding open space opportunities for the people of Carson City.

Right now, I am working with the Nevada congressional delegation to protect the Tahoe Basin from invasive species and devastating wildfires and to restore Lake Tahoe's water clarity and protect threatened species and wildlands. The act will also help protect the area's economy and its 23,000 tourism-related jobs.

Every Nevadan and all Americans should be happy today and use it as a reminder to commit themselves to saving money and reducing pollution by using energy more efficiently.

A Senator from Wisconsin named Gaylord Nelson created Earth Day 40 years ago. He did it after having visited, in his official capacity, a devastating oil spill off the coast of California near Santa Barbara. He came back and said to his staff: We need to do more to protect the environment. Give me some ideas.

The idea started out originally to be a day where they would march, and someone came up with the idea, though, that rather than ''birthday,'' ''Earth Day'' had a ring to it. That is how Earth Day was born. It came at a time when we didn't have the Internet. It was done mostly by word of mouth.

Just before the first Earth Day, Gaylord Nelson came to the Senate floor and warned:

America has bought environmental disaster on the installment plan: Buy affluence now and let future generations pay the price.

Four decades later, we must do more to get ourselves off that plan. We must do more to cultivate a society where fulfilling our responsibilities to nature becomes second nature.

I didn't know Gaylord Nelson, but I certainly feel I knew him because of the great work he has done. I have many of these Earth Days in Nevada. It is really a day of celebration.

That is something we have to do. We have to do everything we can to protect our environment.

Would the Chair announce morning business now.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period of morning business for 1 hour, with Senators permitted to speak therein for up to 10 minutes each, with the Republicans controlling the first 30 minutes and the majority controlling the final 30 minutes.

Mr. REID. I suggest the absence of a quorum and ask that the time be used against both the Democrats and the Republicans.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Madam President, the first 30 minutes is under the control of the Republicans.

The PRESIDING OFFICER. That is correct.

Mr. REID. If I asked that the time be counted equally, then the Democrats who are waiting to come after a half hour expires will not be able to get their full half hour. So I suggest the absence of a quorum, and because it is the Republicans' time, the time should be used as to their time, preserving the 30 minutes we have because we have speakers who want to come here.

Madam President, I don't know if you granted my previous request. If you did, I ask that the present request be the order of the day.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. TESTER. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TESTER. Madam President, I assume we are in morning business and we can proceed.

The PRESIDING OFFICER. The time is currently controlled by the minority.

Mr. TESTER. I ask unanimous consent that I would be allowed to speak and that the time be charged to the majority.

The PRESIDING OFFICER. Without objection, it is so ordered.

FINANCIAL REGULATORY REFORM

Mr. TESTER. Madam President, I rise to talk a little bit about the Wall Street reform bill that the Senate Banking Committee has been working on for the last 6 months. It is my hope we can get this bill through this body and off the floor very soon.

In the past 48 hours, I have been very encouraged by what I have heard as far as the progress of negotiations between Chairman DODD and Senator SHELBY. I urge my colleagues to keep up the good work but remind them that actions speak louder than words and that now is the time for action.

So my message is clear. Let's get this done. I hope we are now at a point beyond creating rhetoric, where we can get down to resolving outstanding issues in a constructive way. We need to end the era of too big to fail once and for all and end taxpayer-funded bailouts that came with that too big to fail.

I voted against both bailouts of Wall Street and the U.S. auto industry because I thought taxpayers were getting a raw deal. I do not believe in bailouts. But I do believe in making sure there are referees on Wall Street to make sure the big banks and the investment firms play by the rules to make sure taxpayers and Main Street small businesses do not pay the price of the sins of Wall Street.

The strong resolution authority and prefunding mechanism included in this bill will strengthen taxpayer protections. Requiring big Wall Street companies to pay into this fund and forcing failing firms into bankruptcy is not going to lead to more bailouts; it, in fact, will have the opposite effect.

But if my Republican colleagues have other ideas about how to provide strong resolution authority to protect taxpayers, I look forward to working with them. So let's stop the rhetoric and get down to the business our constituents sent us to do. We need to address the worst financial calamity since the Great Depression.

Let me also say how much I appreciate the work of my colleagues who have been willing to talk in a thoughtful way about these issues. I wish to say thank you to Senator CORKER for speaking the truth, for rightly noting that some of the concerns that have been raised in this bill could have been resolved in 5 minutes.

After listening to some of my colleagues on the floor yesterday, I think our concerns may be more alike than unalike. I am hopeful we can work together to address common concerns.

Everyone knows we have a pretty good bill. My good friend, Senator SHELBY, says he agrees with 80 to 90 percent of what is in this bill. I am heartened by the newspapers yesterday that we may be close to an agreement. I hope that means we now have the political will to address substantive concerns and move forward with this bill.

When I was elected to the Senate, I vowed to make Washington look a little bit more like Montana. I hope we can show the people of Montana we have the can-do attitude they expect in addressing problems of this magnitude and in moving America out of this financial crisis.

The American people are watching. Montanans are still steaming mad about the $700 billion bailout. I, similar to them, have a hard time understanding why we have not set the rules yet, rules to prevent the risky behavior that got us into this mess nearly 2 years ago.

Let me say to all my friends in this Chamber: We have waited long enough. We simply cannot afford to wait any longer to reform Wall Street. Doing nothing is not an option. Passing a watered-down version of this bill is also not an option. To do either of those would leave us in a vulnerable position, vulnerable to another collapse.

I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Ms. LANDRIEU. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. LANDRIEU. Madam President, I ask unanimous consent to speak as in morning business for up to 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

TAKE OUR DAUGHTERS AND SONS TO WORK DAY

Ms. LANDRIEU. Madam President, I am so pleased to come to the floor this morning to acknowledge that in the Capitol today there are 17 young women from Louisiana, Florida, New York, and Washington who are my special guests for Take Our Daughters and Sons to Work Day, which is today. I will submit their names for the RECORD to show that these young men and women have spent the day working with me in the Senate.

I also wish to acknowledge the Ms. Foundation that created such an exciting, popular, very effective, and useful day for our country to celebrate, almost 17 years ago to this day, this effort where thousands of young people, perhaps even millions, are today with their parents at places of work, exploring opportunities for themselves and their future, understanding a little bit better how our economy works, how our country works.

I know there are several Senators, including Senator DODD, who are participating with me in this event. There are literally hundreds of young people throughout the Capitol today enjoying

this special day with their parents or special friends.

I would like to read into the RECORD names of these young men and women who are with me:

From A.M. Barbe High School, Mariah Celestine, Lake Charles, LA; from Country Day School, Isabel Coleman, New Orleans, LA; from St. Peters School, Dominique Cravins, Washington, DC; from Amite West Side Middle School, Sarah Ellen Edwards, Amite, LA; from Georgetown Day School, Caroline Gottlieb, Washington, DC; from A.E. Phillips Lab School, Devin Herbert, Ruston, LA; from Georgetown Day School, Sydney Kamen, Washington, DC; from Alexandria Country Day School, Larkin Massie, Alexandria, VA; Emma May, Lafayette, LA; from Mount Carmel Academy, Ebony Marie Morris, New Orleans, LA; from Miami Country Day School, Isabela Osorio, Miami Beach, FL; from Miami Country Day School, her sister, Megan Osorio, Miami Beach, FL; from Episcopal High School, Natalie Ross, Plaquemine, LA; from Rye High School, Heather Schindler, Rye, NY; from Georgetown Day School, my own daughter, Mary Shannon Snellings, Washington, DC; from Ernest Gallet Elementary, Cathy Tran, Lafeyette, LA; and from Acadiana Christian School, Savannah Trumps, Lafayette, LA.

I thank them for joining me today in the Senate. I encourage all Senators and staff to think about this day as an opportunity for young people to come to the Capitol and learn about what we do, have a fuller appreciation for the way our government works. I particularly thank majority leader HARRY REID, who has been very supportive of this day, allowing a tour of the Senate floor earlier this morning, having special events throughout the complex. I thank him for his special interest in this occasion.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Ms. CANTWELL. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

FINANCIAL REGULATORY REFORM

Ms. CANTWELL. Madam President, this speech is not meant to target or malign anyone. It is simply to talk about the responsibilities we have as Members of Congress to our constituents.

Our country has been rocked by a financial crisis of epic proportions, one that will have Americans paying for generations to come. It has shaken the public's faith not only in Wall Street but in this institution, the Congress.

Whether it is Enron or Amaranth or Bernie Madoff or the Wall Street bailout, the American people are asking themselves a fundamental question: Can I even trust those guys in Washington to look out for me when it comes to the special interests creating rules of the game that tilt the board in their favor?

Some people listening today may be smiling and thinking: Senator, that is one of the oldest questions and most frequently asked in Washington, DC: Whose side are you on? But never has this question of ''whose side are you on'' had such dramatic consequences for the economic lives of millions of Americans. Over 2 million people have lost their homes, many going into bankruptcy, 7.3 million jobs have been lost, and our government has put something like $24 trillion on the line to help Wall Street in this meltdown—something taxpayers will be paying for decades, to say nothing of the kids who will not go to college because college tuition went up 32 percent or workers whose 401s have been wiped out, making it almost impossible to retire.

The American people have been let down by those involved in government oversight who have feigned: Oh, this stuff is too complex for us to understand. We better listen to those outside interests. They understand this better than I do.

It takes a mighty man, who was in control of our financial markets for nearly two decades, like Fed Chairman Alan Greenspan to admit his philosophy was wrong. But it took even more dogged oversight by the likes of HENRY WAXMAN to take a subject that some people think is too complex to understand and boil it down to a simple yes-or-no question.

Congressman WAXMAN to Mr. Greenspan:

Mr. Greenspan, the premise that you could trust markets to regulate themselves, were you wrong?

Mr. Greenspan, in response:

Yes.

Mr. WAXMAN to Mr. Greenspan:

Mr. Greenspan, you found that your view . . . your ideology was not right.

Mr. Greenspan, in response:

Precisely.

This debate we are about to have on financial reform, in my mind, is really about the backbone of Congress. The central issue before us today is whether Congress is going to continue to trust Wall Street and those who represent them because there is too much complexity for Congress to understand. Really? Is it any more complicated than national security or the Medicare GPCI reimbursement formulas or our Tax Code in general? Really? Is it too complicated?

P.J. O'Rourke, at a recent dinner honoring journalists, said:

It's a fundamental principle of the rule of law, a fundamental principle of economics, and a fundamental principle of politics. . . . that beyond a certain point, complexity is fraud.

I agree with him. How is it that average Americans know that a back-alley craps game with fixed dice is a no-win situation, yet a dark market with fixed financial instruments is allowed to carry on for more than a decade under the mischaracterized title of ''free market''?

The issue is, we were told over the last 10 years by the Bush economic working group—and, for that matter, the Clinton economic working group and now even some members of the Obama economic working group—that these issues are too complex to understand. Really? Is that what happened when Bernie Madoff literally made off with millions of investors' life savings in a Ponzi scheme? It was not complex. And regulators were either afraid, lazy, or paid off when they failed to ask a simple question: Let me see your books. When we deregulated energy markets and Enron had at least one manipulation scheme for every day of the week—Death Star, Get Shorty, Ricochet, Fat Boy, just to name a few—these issues were not complex; it was simply shorting supply to drive up the price.

No, the issue is not complexity. It is about the central issue of markets. They have to have transparency and oversight to operate effectively. Never more have the American people been counting on their Members of Congress to act like David against the big Goliath, Wall Street interests.

We have been repeatedly warned about derivatives. The Long-Term Capital Management crisis almost took down the world economy in 1998 because it started using complex mathematical formulas to do derivatives.

Then-Chairman Brooksley Born of the Commodity Futures Trading Commission proposed regulating derivatives. That was her agency's primary role. Not only was she told by the President's working group she could not, they helped mastermind a strategy with Congress to stop her. So instead of regulating derivatives, Congress passed a law making sure the oversight agency could not regulate them. And just for extra measure, we also prohibited State attorneys general from regulating them as well.

Well, why, if you were on Wall Street, would you ever worry about what exotic financial tools you were cooking up if you knew there was no oversight? Let me say that there are people on Wall Street who operate ethically, without fraud, without manipulation, and provide an essential tool to our economy and functioning markets. But when you take away the accountability of Wall Street, something happens to the accounting on Wall Street.

We have had many votes here in the last 10 years to regulate and have oversight of the derivatives market and bring them out of the dark, and those efforts have primarily failed because the so-called smartest guys in the room stopped us. Did it really take another near 1933 Depression to remind us of our fundamental role? I ask my colleagues to check their previous votes on derivatives and tell me whether they still want to vote the same way.

My constituents have been so disgusted by our lack of holding Wall Street accountable, they have said: If

you can't beat them, then at least break them up. So I will be offering an amendment to return us to Glass-Steagall, the law of the land previous to 2000, to help protect consumers for decades. And I will be offering an amendment to strengthen our antimanipulation laws to make sure that if manipulation happens in the future, there will be a price to be paid.

I will also say that my constituents want us to get this right and get capital flowing to small business. While Treasury turned the keys over to Wall Street to bail them out, small business is still being strangled by the lack of access to capital.

As one quote says:

This then is more than the tale of one company's fall from grace. It is at its base the story of a wrenching period of economic and political tumult as revealed through a single corporate scandal. It is a portrait of America in upheaval at the turn of the century, torn between the worship of fast money and its zeal for truth, between greed and high mindedness, between Wall Street and Main Street. Ultimately it is a story of untold damage wreaked by a nation's folly—a folly that in time we are all but certain to see again.

I wish that quote was about our current crisis that started in 2008, but it is not. That quote is from a book called ''Conspiracy of Fools'' by Kurt Eichenwald that was written in 2005. He warned us that what was happening was just a tremor leading up to a massive earthquake that was about to happen. We did not listen. Are we listening now?

I am going to be working with my colleagues to offer several amendments on the floor to strengthen this legislation, to make it the strongest legislation possible, to be accountable to my constituents, and to make sure we are putting derivatives back into the clear light of day.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

IMPROPER PRACTICES ON WALL STREET

Mr. SPECTER. Madam President, I thank the Chair. I have sought recognition to comment briefly on a hearing which will be held by the Criminal Law Subcommittee of the Committee on the Judiciary on May 4 concerning allegations of improper practices on Wall Street.

In light of the allegations of misconduct on Wall Street in recent years and the consequential damages to the economy of the United States and worldwide, serious consideration should be given to whether civil liability and fines are sufficient or whether jail sentences are required to deal with such conduct and as a deterrence to others. With civil liability or a fine, the companies or individuals calculate it as part of the cost of doing business, but a jail sentence is enormously different.

The charges brought by the Securities and Exchange Commission accusing Goldman Sachs of securities fraud in a civil lawsuit has brought intense public concern to conduct on Wall Street which has long been questioned. According to the SEC complaint, Goldman permitted a client who was betting against the mortgage market to heavily influence which mortgage securities to include in the portfolio. Goldman then sold the investments to pension funds, insurance companies, and banks. The client was betting the securities would decline in value based on his knowledge of the underlying value. Similar practices have been defended by investment bankers on the ground that the investors are sophisticated and have a duty to protect themselves without relying on the investment counsel. There is a contention that the only issue is whether the investments are suitable, with the denial that there is a fiduciary duty. That defense further contends that there is no conflict of interest.

Some of the issues to be considered at the hearing to be held by the Criminal Law Subcommittee of the Judiciary Committee on May 4 are the following:

First: Precisely what are the structures of the complex commercial transactions involving securitizing mortgages, selling short hedge funds, derivatives, et cetera?

Second: Under what circumstances, if any, do the investment bankers have a fiduciary duty to the investors?

Third: Where, if at all, do conflicts of interest arise in such transactions?

Fourth: Is there a legitimate distinction between the investment council's duty to provide only a ''suitable'' investment without a fiduciary duty involved?

Fifth: When the investment banker recommends or offers an investment, is there an implicit representation that it is a good investment?

In my judgment, Congress should examine these complicated transactions with a microscope and make a public policy determination as to whether such conduct crosses the criminal line. Congress should investigate and hold hearings to find the facts. Congress should then define what is a fiduciary relationship, what is a conflict of interest, and what conduct is sufficiently antisocial to warrant criminal liability and a jail sentence.

As a starting point, it should be emphasized that the SEC complaint contains allegations which have yet to be proved. The numerous newspaper stories and other media reports are hearsay, so the task remains to find the facts. These inquiries on Wall Street practices are being made in the context that they triggered or at least contributed to a global financial crisis.

Larry Summers, on March 13, 2009, said:

On a global basis, $50 trillion in global wealth has been erased over the last 18 months. That includes $7 trillion in the U.S. stock market wealth which has vanished, $6 trillion in housing wealth which has been destroyed, 4.4 million jobs which have already been lost, and the unemployment rate now exceeds 8 percent.

In the intervening year, a total of 6.5 million jobs are now the total lost, and the unemployment rate stands at 9.7 percent.

I have long been concerned about the acceptance of fines instead of jail sentences in egregious cases. There are many illustrative cases, but three will suffice to make the point. In each of these cases, I registered my complaint with the Department of Justice.

First: On September 2, 2009, Pfizer agreed to pay $2.3 billion to resolve criminal and civil liability for committing health care fraud for selling Bextra, for off-label uses the FDA declined to approve because they were unsafe. For a company with revenues in excess of $48 billion and an income in excess of $8 billion in fiscal year 2008, it was chalked off as the cost of doing business.

The second case: On December 15, 2008, Siemens AG entered guilty pleas to violations of the Foreign Corrupt Practices Act and agreed to pay $1.6 billion in fines, penalties, and disgorgements with no jail sentences. Again, that amounts to a calculation as part of the cost of doing business for a company which had revenues of $104 billion and a net income of $2.5 billion in fiscal year 2008, after the penalty.

The third case, briefly: On May 8, 2007, Purdue Pharma agreed to pay $19.5 million to 26 States to settle complaints that Purdue encouraged physicians which prescribed excessive doses of OxyContin in violation of an FDA ruling which resulted in numerous deaths. Company officials paid fines, nobody went to jail; again, part of the cost of doing business.

From my days as district attorney of Philadelphia, where my office convicted the chairman of the Housing Authority, the Stadium Coordinator, the deputy commissioner of Licenses and Inspections, and others, my experience has convinced me that criminal prosecutions are an effective deterrent.

The deterrent effect of prison was succinctly stated by Mr. William Mercer, chairman of the Sentencing Guideline Subcommittee of the Attorney General's Advisory Committee, on behalf of the Department of Justice, in a 2003 publication. He said:

[W]e believe that the certainty of real and significant punishment best serves the purpose of deterring fraud offenders and particularly white collar criminals. [O]ffenders usually decide to commit fraud and other forms of white collar crimes not with passion, but only after evaluating the cost and benefits of their actions. If the criminally inclined think the risk of prison is minimal, they will view fines, probation, home arrest, and community confinement merely as a cost of doing business. We aim to remove the price tag from a prison term. We believe that if it is unmistakable that the automatic consequence for one who commits a fraud offense is prison, many will be deterred, and at least those who do the crime will indeed do the time.

These are some of the considerations which will be taken up at the subcommittee hearing.

I thank the Chair and I yield the floor.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

EXECUTIVE SESSION

NOMINATION OF DENNY CHIN TO BE UNITED STATES CIRCUIT JUDGE

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to executive session to consider the following nomination which the clerk will report.

The legislative clerk read the nomination of Denny Chin, of New York, to be United States Circuit Judge for the Second Circuit.

The PRESIDING OFFICER. There is 60 minutes, equally divided, on this nomination.

The Senator from Vermont.

Mr. LEAHY. Madam President, yesterday the Senate was forced to devote the entire day to so-called ''debate'' on two nominations that Republican objections had stalled for months. The good news is, the majority leader's filing of cloture motions to end the filibusters on these nominations succeeded. The votes took place. Each was confirmed with more than 70 votes, a bipartisan majority of the Senate. The debate amounted to statements by Senators in support of the nominations. Let me emphasize that. The only people who spoke, spoke in support of the nominations. During the entire day, not a single Republican Senator came to the floor to oppose the nominations, nor did a single Senator come to the floor to explain why there have been months of delay that left a key office of the Justice Department without a head for the last year. None came to explain why their objections left a longstanding vacancy in the U.S. Court of Appeals for the Third Circuit.

Instead, there was silence. There is no explanation for what continues to be a practice by Senate Republicans of secret holds and a Senate Republican leadership strategy of delay and obstruction of President Obama's nominations. That is wrong.

Throughout the week, a number of Senators have come before the Senate to discuss this untenable situation. They have asked for consent to proceed to scores of nominations that are totally noncontroversial. Yet Republicans objected because, after all, these nominees had committed the horrible sin of being nominated by a Democratic President. It makes no sense. I am in my 36th year in the Senate. I have never seen anybody treat any President, Republican or Democratic, in this way.

Pursuant to our Senate rules which were enacted after bipartisan efforts, those Republican Senators who are objecting have an obligation to come forward and justify those objections. I am going to be interested to see which Senators are objecting to proceeding on 18 judicial nominees. Eighteen nominees who were reported unanimously—every Democrat, every Republican in support of them from the Judiciary Committee—and then they are held by these secret holds. I will be interested in knowing what basis there is for not proceeding on those 18 nominees. In fact, I would like to know why we can't proceed to the 11 Justice Department nominees who were reported without objection—U.S. attorneys, U.S. marshals, and Directors of important institutes and bureaus within the Justice Department. Most of these people are involved with critical law enforcement matters. These stalled nominations extend back into last year, even though they had unanimous support from the committee, Republicans and Democrats alike. Even though most of them are in key law enforcement positions, they have been stopped, they have been held up, they have been stalled. This is wrong, and it should end.

Today, the Senate has another opportunity to make progress by completing action on the long-stalled nomination of Judge Denny Chin of New York to the U.S. Court of Appeals for the Second Circuit, which is the circuit of the distinguished Presiding Officer and of this Senator. The vacancy he has been nominated to fill, which has been delayed by some anonymous Republican objection, has been classified as a judicial emergency by the nonpartisan Administrative Office of the U.S. Courts. It is not unusual. There are 40 other judicial emergency vacancies and judges being held up. It is one of the four current vacancies in the Second Circuit's panel of 13 judges. All are judicial emergencies. Almost one-quarter of the court is being held vacant. That is wrong.

It reminds me of the years during the Clinton administration when similar Republican practices led to Chief Judge Winter, himself a Republican, having to declare the entire circuit an emergency in order to continue to operate with panels containing only a single Second Circuit judge. That is wrong. During that era, we had 61 pocket filibusters of a Democratic President's judges. That is wrong.

Yesterday, Republicans insisted on 3 hours of ''debate'' before a vote on Judge Vanaskie and another 3 hours of ''debate'' for a vote on Professor Schroeder, but none of them came down to debate. Then they were both confirmed by overwhelming margins. We should be thankful that today they have insisted on only 1 hour before this long overdue vote. I will be interested to see whether a single Republican Senator comes to speak in opposition of Judge Chin's nomination or to explain why they have delayed this vote for 19 weeks.

The Judiciary Committee unanimously voted to report Judge Chin's nomination last December—all Republicans and all Democrats. None of the Republican Senators serving on the committee opposed it—not Senators SESSIONS, HATCH, GRASSLEY, KYL, GRAHAM, CORNYN, or Senator COBURN. Not one. He is an outstanding district court judge. He has the strong support of both of his State's Senators and a number of conservative leaders. Yet his nomination has been stuck on the calendar since December. He has been waiting 133 days for the Senate to act. Contrast this with the practice Democrats followed during the first 2 years of the Bush administration when we proceeded to vote on his circuit court nominations, on average, within 7 days of their being reported by the Judiciary Committee. Now we wait 133 days and more.

This dramatic departure from the Senate's traditional practice of prompt and routine consideration on noncontroversial nominations has led to a backlog of nominations and a historically low rate of judicial confirmations, and it damages the integrity of our courts. Our Federal system of judges has been the envy of most other countries because we keep them out of politics. Here we are sinking them into politics.

In fact, by this date in President Bush's Presidency, the Senate had confirmed 45 Federal circuit and district court judges. As of today, only 19 Federal circuit and district court confirmations have been allowed by the Republicans. This is despite the fact that President Obama began sending judicial nominations to the Senate 2 months earlier than President Bush did, so the Senate is way behind the pace we set during the Bush administration.

In the second half of 2001 and through 2002 the Senate confirmed 100 of President Bush's judicial nominees. Given Republican delay and obstruction this Senate will not likely achieve half that. Last year the Senate was allowed to confirmed only 12 Federal circuit and district court judges all year. That was the lowest total in more than 50 years. Meanwhile, judicial vacancies have skyrocketed to more than 100.

Judge Chin is a well-respected jurist who is widely celebrated for one of his most newsworthy decisions in which he sentenced Ponzi scheme operator Bernard Madoff to 150 years in prison. He previously served for 4 years as a Federal prosecutor, and he spent a decade as a lawyer in private practice. You would think they would be saying: Why don't we move forward with the man who sentenced Bernie Madoff? It is almost as if we are punishing him for going after Bernie Madoff.

In fact, Judge Chin's impressive track record garnered the respect of former judge and former Attorney General Michael Mukasey who wrote to the

Judiciary Committee: ''I believe him to be an intelligent and highly qualified nominee, who brings to the job not only experience but also demonstrated good judgment and skill. He . . . [has] a temperament that has shown him to be both firm and fair.''

James Comey, a former Deputy Attorney General and the former U.S. Attorney in the Southern District of New York, echoed this praise. ''In a district with many fine trial judges, he was a star—smart, fair, honest, careful, firm, apolitical, and a brilliant writer. . . . [W]hile always in control of the proceedings, he never lost the sense of humility that allowed him to listen to an argument with an ear toward being convinced and to give all a fair hearing,'' wrote Mr. Comey.

Judge John S. Martin, appointed by President George H.W. Bush, wrote to emphasize that Judge Chin ''is an exceptionally able lawyer'' and a ''decent and thoughtful individual . . . who has earned the respect of those who have appeared before him.''

When Judge Chin is confirmed today, he will become the only active Asian Pacific American judge to serve on a Federal appellate court. He was also the first Asian Pacific American appointed as a U.S. district court judge outside the Ninth Circuit.

I cannot understand the stall of this nomination. It is time that we get to work. Let's move the people who should be moved forward. Let's get on with our job. After all, the American public pays us well to do this job. They pay us to vote yes or no. They don't pay us to vote maybe. With all of these stalls, we are saying we want to vote maybe. Come on, let's have the guts to vote yes or no.

Today I look forward to congratulating Judge Chin and his family on this historic achievement. I commend both Senator SCHUMER and Senator GILLIBRAND for their persistence in supporting this important nomination and bringing this matter to fruition. His confirmation is long overdue.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LEAHY. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Madam President, I ask unanimous consent that the time during the quorum call be charged equally to both sides, and I suggest the absence of a quorum.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mrs. BOXER. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. BOXER. Madam President, I ask unanimous consent that the vote on the confirmation of the nomination of Denny Chin to be a U.S. circuit judge for the Second Circuit occur at 12 noon today, and that the time until then be divided as previously ordered; further, that the other provisions of the previous order remain in effect, and that upon confirmation, the Senate then return to legislative session and proceed to a period of morning business with Senators permitted to speak therein for up to 15 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. BOXER. Madam President, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MCCONNELL. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECOGNITION OF THE MINORITY LEADER

The PRESIDING OFFICER. The Republican leader is recognized.

FINANCIAL REGULATORY REFORM

Mr. MCCONNELL. Madam President, in the fall of 2008, I reluctantly voted for a bill that sent taxpayer money to Wall Street banks that should have paid for their own mistakes. We were told it was needed in order to avert a global calamity. So I did it. Then I went back to my constituents and vowed: Never again. Never again should taxpayers be on the hook for recklessness on Wall Street, and no financial institution should be considered too big to fail.

So when the financial regulatory bill the majority was about to bring to the floor last week still contained a number of loopholes allowing future bailouts, I raised the alarm. I wasn't about to take Democratic assurances that this bill protected taxpayers. I wanted them to prove it. That is what this debate is all about. It is about proving to my constituents and to the rest of the country that we actually do what we say we are going to do around here because if you haven't noticed, there is a serious trust deficit out there. Public confidence in government is at one of the lowest points in half a century. Nearly 8 in 10 Americans now say they do not trust the government and have little faith it can solve America's ills. And it is no wonder.

Over the past year, the American people have been told again and again that government was doing one thing when it was doing another. Just think about some of the things Americans have been told.

As a Senator, the current President rallied against deficits and debt. He said America has a debt problem and that it was a failure of leadership not to address it. Yet last year, his administration released a budget that doubles the debt in 5 years and triples it in 10. The debt has increased over $2 trillion since he took office. In February, the Federal Government ran the largest monthly deficit in the history of the United States.

How about the bailouts? The President said he didn't come into office so he could take over companies. But whether or not that is the case, Americans can't help but notice that some people did better than others. When it came to bailing out the car companies, the unions fared a lot better than anyone else.

What about jobs? Last year, the White House rushed a stimulus bill through Congress because it said we needed to create jobs. They said we needed to borrow the $1 trillion it cost the taxpayers to keep unemployment from rising above 8 percent. Well, more than a year later, unemployment is hovering around 10 percent. All told, we have lost nearly 4 million jobs since the President was sworn in.

Then there was health care. I will leave aside the substance for a moment and just talk about the process. Americans were told the process would be completely transparent, that all the negotiations would be broadcast live on C–SPAN. Instead, they got a partisan back-room deal that was rammed through Congress during a blizzard on Christmas Eve.

This is the context for the debate we are currently in. So it should come as no surprise to anyone that when we are talking about a giant regulatory reform bill, the American people aren't all that inclined to take our word for it when we say it doesn't allow for bailouts or that it will not kill jobs or that it won't enable the administration to pick winners or losers. They have heard all that before, and they have been burned. This time, they want us to prove it.

The first thing they want us to prove is that this bill ends bailouts. That was the one thing this bill was supposed to do, and if this bill didn't do anything else but that, a lot of people would be satisfied. The administration has said it wants to end bailouts. I say to them: Prove it.

Some of us have pointed out concerns that this bill would give the administration the authority to use taxpayer funds to support financial institutions at a time of crisis. Yes, the bill says taxpayers get the money back later, but that sounds awfully familiar. Isn't that exactly what we did with the first bailout fund—a bailout fund Americans were promised would be repaid but which Democrats are now trying to raid in order to pay for everything else under the Sun?

If a future administration thinks there is a crisis that requires using taxpayer funds, then they should have to get permission from the taxpayers first. It is not enough for someone in the administration to say it is so; they need to come to Congress before they write the check. If this bill isn't like the first bailout, prove it.

As I said, we have seen in other bailouts that some are treated better than others. This bill appears to enable the same thing by allowing the FDIC to treat creditors with equal claims differently. If the proponents of this bill think this bill does not allow the administration to pick winners and losers, they need to prove it.

This bill also contains a number of provisions that threaten the ability of small businesses to hire new workers. Other provisions would send jobs overseas. And just this morning, the Wall Street Journal pointed out a provision that would put new regulatory burdens on startup businesses that would make it harder for them to get off the ground. If this bill doesn't create new burdensome regulations that will make it harder for Americans to dig themselves out of this recession, then prove it. Prove it.

Every indication is that the chairman and the ranking member are making progress in their discussions and that this bill will have needed improvements. That is good. Some of the concerns I have just raised are among the topics being discussed. But in the end, Americans are not rooting for some deal. They have asked us for clarity. They are asking us, not for verbal assurances but for concrete proof, because at the end of the day I need to be able to look my constituents in the eye and prove to them that this bill does not allow for any bailouts. I need to prove to them that this bill doesn't treat some favored groups better than others. I need to prove to them that this strengthens the economy, that it doesn't make it worse.

People need to be convinced that we are doing what we are saying we are doing. This time they want proof and, frankly, I don't blame them.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DORGAN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

STALLED NOMINATIONS

Mr. DORGAN. Madam President, I know we have a vote scheduled at 12 noon on a nomination. I know that is but 1 of 100 nominations that are on the calendar awaiting action by the Senate. It is probably not very surprising that people do not think much of this place when we cannot get nominations through, we cannot get business done. But people should understand the reason there are 100 nominations waiting on this calendar is because the minority has decided to say no to everything, just to dig in their heels and decide they are not going to cooperate on anything.

This afternoon I will again come to the floor and ask unanimous consent on the nomination of GEN Michael Walsh. I just wanted Senator VITTER from Louisiana to be aware that I intend to do that again.

Let me say I am going to be back this afternoon to talk about the START treaty and also to talk about financial reform and a couple of issues that are important to me, particularly the issue of too big to fail and the issue of, what I call just gambling on naked credit default swaps. I will talk about both of those this afternoon.

But when I come this afternoon, I am going to ask unanimous consent on the nomination or the promotion of General Walsh. Let me again describe why this is important.

General Walsh is a decorated American soldier, served 30 years in the U.S. Army. He now commands a division of the U.S. Army Corps of Engineers. He has served in wartime. He has served in Iraq. Six months ago, on a bipartisan vote, unanimous vote, the Armed Services Committee decided to promote this general to major general, give this one-star general a second star. And 6 months later, this general has not been promoted. This person with a distinguished Army career has not received his promotion. His promotion has been derailed by one Member of the Senate. That Member has the right to object, and so he has objected to the promotion for this general.

My point has been that the objection to promoting a general with a distinguished wartime record and a distinguished record for 30 years is an objection based on a demand from one Member of the Senate that the Corps of Engineers do something that the Corps of Engineers has already told the Senator it does not have legal authority or legal ability to do.

As I have indicated on two other occasions, I do not come to the floor to criticise another Member by name. I have never done that before by name. But I did tell Senator VITTER from Louisiana that I intended to do that. As a matter of courtesy, I wanted him to know. I think it is wrong. I think it is a horribly bad decision for him to decide that he is going to hold up the promotion of a general who served this country for 30 years because he is demanding certain things for New Orleans and Louisiana the Corps of Engineers says it cannot do and does not have the legal authority to do.

Let me say as the chairman of the subcommittee that funds all of the water issues, and there are plenty of water issues in Louisiana—I know because I have been involved in it—we have sent billions and billions and billions of dollars of the American taxpayers' money to New Orleans and Louisiana in the aftermath of Hurricane Katrina. I am pleased we have done that because they were hit with an unprecedented natural disaster called Hurricane Katrina.

So I was one of those who helped, who helped do some of the lifting to get the money to New Orleans and Louisiana. But our colleague indicated the other day that he is unhappy with the U.S. Government's response down in Louisiana.

Well, I would simply say to the folks in New Orleans and Louisiana: You know what life would be like were this money and were the Corps not down there with the billions of dollars that have now been spent. I think it is important to understand the value of that cooperation and the value of that partnership.

I understand there are some things about which people disagree. One of the issues raised by my colleague is an issue of the pumping stations down there. There is a disagreement about how they should proceed. He is demanding they proceed with a study in the manner that he determines it should proceed. My point is, the Appropriations Committee has already voted against that and said: We will not do it. No. 1, it costs more; and, No. 2, it provides less flood protection. So we are not going to do that.

To demand that be done, which the Corps does not have the authority to do at this point, and as leverage for that demand to hold up for 6 months the promotion of a distinguished soldier who has served in wartime, I think, is unbelievable.

So this afternoon I will come again and ask unanimous consent once again that this soldier get the promotion that he is owed and deserves. Senator JOHN MCCAIN, Senator CARL LEVIN, the ranking member and the chairman of the Armed Services Committee, both support this promotion. The entire Armed Services Committee voted for it unanimously, and yet 6 months later this soldier is not promoted.

I can understand people using a lot of leverage around here for various things. I have used some leverage myself on certain things. But I do not understand someone using the career of a soldier to make demands that cannot possibly be met. If he continues to do that for 6 or 16 months, the situation will be the same as it is now because the Corps of Engineers cannot do what the Senator from Louisiana is demanding they do.

It is simply, in my judgment, using this soldier's career as a pawn. That is terribly unfair to any uniformed soldier who serves this country, especially a soldier who has gone to war for this country. So this is fair notice that I will ask unanimous consent. I assume it will be somewhere in the 4 or 5 o'clock range today. My expectation is that the Senator from Louisiana will be on the Senate floor at that point. My hope is he would not object.

Finally, at long last, my hope is that he will allow the Senate to do the right thing and give this soldier's career and this soldier's promotion the due that it is owed by this Senate.

As I said, I am going to come back later today. I want to talk at some length about the START treaty, which I think is very important. I was in Moscow, Russia, within the last week and a half taking a look at global

threat reduction initiatives that we are working on with the Russians. It is very important that this START treaty be ratified by the Senate. I note that there are some of my colleagues saying: The only way we will ratify the START treaty, the only way we would support that and not block that would be if we get dramatic new monies for new nuclear weapons or something of the sort.

So I am going to talk about that today. I also am going to talk about the financial reform bill, which is now staring us in the face, and about, as I mentioned, the issue of something that sounds like a foreign language, but it is not: naked credit default swaps. That is not a foreign language; that is flatout gambling that has been done by the largest financial firms in the country that steered America right into the ditch. It is very important they be dealt with, and dealt with the right way in financial reform.

Also, I am going to talk about the issue of too big to fail. In my judgment, if you are determined to be too big to fail, then, in my judgment, you are too big. I believe divestiture is an important part of the solution to that. I will talk about that more this afternoon.

I yield the floor.

The PRESIDING OFFICER. The Senator from California.

EARTH DAY

Mrs. BOXER. I just want to say to my friend, I thank him for bringing the issue of the promotion of an Army Corps general to the floor today. I support his remarks. I support moving forward on that promotion.

Madam President, April 22 is Earth Day. It has been 40 years since then-Senator Gaylord Nelson first advocated setting aside a national day to focus on our environment. We have learned a lot in those 40 years. What we have learned is, it is very rewarding to protect and defend our environment. What we have learned is, when we do that, and we do it in the right way, we create millions of jobs and an economy that is very prosperous.

One very clear example of that is, take my California coastline. It is an economic driver. It is beautiful. It is an economic driver because people want to see it in all of its beauty. They want to enjoy its beauty. They spend a lot of dollars on tourism to come and visit my coast. They go to the restaurants. They go to the stores. That is why we have always argued against our colleagues who want to go and destroy—potentially destroy—that magnificent coastline, which is a gift from God, in my humble view.

It is interesting because the first Earth Day was inspired by a horrible oilspill that hit Santa Barbara, and the whole country saw the devastation, what happened to the wildlife, what happened to the ocean, what happened to the people there.

Ever since that time we have been taking a moment to take a deep breath. By the way, breathing clean air is also an important part of Earth Day to actually appreciate this incredible gift that we have been given and to rededicate ourselves to the preservation of our environment.

In 1969, the Cuyahoga River in Ohio caught fire. Swaths of the Great Lakes were lifeless dead zones. Air in our cities was very unhealthy. All that happened in that year that then-Senator Gaylord Nelson decided to act on Earth Day.

When Senator Nelson took a trip, a plane trip, and looked down at the devastation of the awful Santa Barbara spill, he realized we needed a day to celebrate the Earth and to dedicate ourselves to protecting these gifts we have been given. Twenty million Americans rallied to celebrate the first Earth Day the following year in April 1970.

I think it is important to note that protecting the environment has been a bipartisan thing here, at least up until recent times. The Environmental Protection Agency opened its doors in November of 1970. It was Richard Nixon who signed that law. The Clean Water Act became law in 1972, the Safe Drinking Water Act in 1974, the Toxic Controlled Substances Act in 1976.

We have seen dramatic improvements in the air we breathe, the water we drink, and, again, very good growth in our economy over this period. We saw the gross domestic product rise from $4.26 trillion in 2005 dollars, in 1970, to $12.9 trillion. That is a threefold increase in the GDP during the time we had these great environmental laws on the books.

So when the next politician stands up and says: You are going to devastate the economy, let's show him or her that is not so. If we take the lead—lead is a neurotoxin. When we keep it out of the area of our children, we know their IQs have gone up. It has been proven. We know what lies before us, clean energy. We know if we can get carbon pollution out of the air, it is going to unleash twice as many dollars from the private sector into finding new technologies, clean energy technologies. It will get us off of that addiction to foreign oil, $1 billion a day. We will make products in this country that the whole world wants.

The world is going green. Why should we step back and allow China to make all of the solar panels? Why should we step back and allow Germany to make all of the windmills? They have taken over the lead from the United States of America.

I want to see the words ''Made in America'' again. I want to see them on products, clean energy technology products. I hope we will recommit ourselves to protecting this environment.

Today, we have a tremendous opportunity before us in clean energy. When we move forward to address the challenge of climate change, we will create millions of jobs and protect our children from dangerous carbon pollution. Most importantly, clean energy will move us away from our dangerous dependence on foreign oil, which is costing us a billion dollars a day and making our country less secure.

America should be the leader in creating clean energy technologies that are made in America and work for America.

It will mean manufacturing jobs for people who build solar panels and wind turbines; it will mean jobs for salespeople who will have a world-wide market for these American made exports.

It will mean jobs for engineers, office workers, construction workers, and transportation workers too.

But today, other countries are moving quickly to take advantage of the enormous opportunities to manufacture and sell the solar, wind, geothermal and other clean energy technologies that will power the world in the coming decades.

Venture capitalists tell us that when we pass clean energy and climate legislation, it will unleash a wave of private investment that will dwarf the capital that poured into high tech and biotech combined. That means new businesses, new industries, and millions of new jobs for American workers.

Colleagues on both sides of the aisle are working on legislation to step up to the clean energy and climate challenge, building on the work we have done in the Environment and Public Works Committee. I look forward to working with them as this process moves forward.

This Earth Day, we have an unprecedented opportunity to reinvigorate our economy, create jobs, and put America on a new course to recovery and prosperity. Let's remember the lessons of the past and seize this opportunity.

I yield the floor.

Mr. SCHUMER. Madam President, I rise today to speak in support of the nomination of Judge Denny Chin to the United States Court of Appeals for the Second Circuit. Judge Chin is, first and foremost, a highly qualified and experienced nominee to one of the busiest courts in the country.

Judge Chin's life story speaks volumes about his own talent and determination, but also about the opportunities that this country offers—opportunities that made it possible for him to make the journey from Hong Kong, through Hell's Kitchen, to New York's best schools and now to the Second Circuit.

No one could be more qualified. No one could have a more impeccable record on the district court. And, he has the bonus of providing needed diversity to our appellate bench.

Nonethless, after passing him out of committee unanimously, my Republican colleagues required the majority leader to file cloture on his nomination. It took 4 months—4 months—to get an up or down vote on him. It is good for the court system and the country that we are finally doing it this morning.

He has been a sitting judge in the Southern District of New York for 15 years, during which time he has presided with exceptional skill over some of the most challenging and important cases in the country.

Judge Chin is a quintessential New Yorker: He graduated from our best schools—including Stuyvesant High School and Fordham University Law School—and practiced there his entire career. His family emigrated from Hong Kong to America when Judge Chin was just 2 years old. His father worked as a cook and his mother worked as a garment factory seamstress in Chinatown. He grew up in a cramped tenement in Hell's Kitchen with his four siblings. He later practiced in New York as both a private lawyer and a Federal prosecutor.

Throughout my time in the Senate, I have applied the following criteria to each nominee for the federal bench: Is he excellent? Is he moderate? And will he bring diversity to the bench?

On excellence: Besides his obvious academic and professional credentials, Judge Chin has earned a unanimous well qualified rating excellent by ABA.

But more important than this, in my book, are the views of his peers who come in contact with him every day. Few judges have earned the accolades that litigants have given Judge Chin, whether they have experienced his courtroom in victory or defeat.

For example, in the Almanac of the Federal Judiciary—which compiles evaluations of judges from practitioners—lawyers describe Judge Chin as ''a judge's judge,'' ''conscientious,'' ''extremely hard-working,'' ''very bright,'' and ''an excellent judge.''

In short, no one—no one—questions Judge Chin's excellence, his intellect, or his temperament.

On moderation: There is more than one way to evaluate Judge Chin's moderation.

First, he is a tough, but fair, sentencing judge. In an observation that is emblematic of Judge Chin's moderation, one attorney has even said of Judge Chin: ''[h]e is a decent human being but he doesn't let that influence his sentencing.''

Judge Chin is, in fact recently best known for sentencing Ponzi scheme operator Bernard Madoff. In a case that could have been a complete circus, that involved hundreds of victims who lost every penny they had, Judge Chin ran the proceedings with dignity and efficiency and sentenced Madoff to the highest possible sentence.

Judge Chin said:

> The message must be sent that Mr. Madoff's crimes were extraordinarily evil and that this kind of irresponsible manipulation of the system is not merely a bloodless financial crime that takes place just on paper, but that it is . . . one that takes a staggering human toll.

In addition, Judge Chin has said explicitly that he believes in a modest, moderate role for judges. In his 1994 questionnaire that he submitted during his confirmation to be a district court judge, he wrote:

> My view is that judges ought not to legislate; that is not their function. Judges interpret and apply the law, keeping in mind the purposes of the law.

Finally, Judge Chin has plenty of bipartisan support. His nomination garnered glowing letters from former Attorney General Michael Mukasey and Republican-appointed U.S. Attorney John Martin, who hired him 30 years ago and has practiced before Judge Chin. He had not a single vote against him, Democrat or Republican, in committee.

On the topic of diversity: It goes without saying that Judge Chin's confirmation would improve the diversity of the Federal appellate bench. He already has the distinction of being the only Asian American judge to serve on the Federal district court outside of the Ninth Circuit. With his confirmation, he will be the only currently active Asian American appellate judge on the Federal bench.

So, let us proceed to approve Judge Chin without further delay, and keep one of the busiest dockets in the Federal judiciary functioning smoothly. I am proud and pleased to have a role in this historic moment for our Federal courts.

Mrs. GILLIBRAND. Madam President, I am pleased to rise today in strong support of the nomination of fellow New Yorker, Judge Denny Chin, to be a judge on the U.S. Court of Appeals for the Second Circuit. Judge Chin has a distinguished legal career, having dedicated the majority of his life to public service and education. His experience in the court room spans more than a decade as a litigator, and over 15 years as a Federal judge.

When he was 2 years old, Judge Chin moved with his parents from Hong Kong to New York, where he later attended Stuyvesant High School. Through hard work, he was able to attend Princeton University, where he received the Athlete Award from the National Football Scholarship Foundation and graduated magna cum laude. After graduating from Princeton, Judge Chin attended Fordham School of Law, where he earned his juris doctorate and became managing editor of the Fordham Law Review.

As impressive as his educational background is, Judge Chin has enjoyed an equally notable legal career in public service and private practice, beginning with a job clerking for U.S. District Judge Henry Werker in the Southern District of New York for 2 years. He then spent another 2 years at Davis Polk & Wardwell before resuming his commitment to public service at the U.S. Attorney's Office for the Southern District of New York. As a Federal prosecutor, Judge Chin honed his litigation skills by arguing cases in the U.S. District Court and the U.S. Court of Appeals for the Second Circuit. Following his time at the U.S. Attorney's Office, Judge Chin went back into private practice, working as a litigator and a partner at several law firms in New York, and also as a solo practitioner, becoming a specialist in employment and commercial law.

In 1994, Judge Chin was the first Asian American appointed to Federal district court outside the Ninth Circuit, where he has served for 15 years. During his time on the bench, Judge Chin has presided over more than 4,700 civil and 650 criminal cases, issuing more than 1,500 opinions. He has served as designated judge on the Second Circuit Court of Appeals on 84 appellate cases, of which nine decisions are his written opinions. Notably, Judge Chin presided over the high profile trial of Bernard Madoff, whom Judge Chin ultimately sentenced to 150 years in prison for defrauding billions of dollars from New Yorkers and individuals from across the United States.

Judge Chin has demonstrated a strong commitment to education and the next generation of the legal profession as a professor of law for more than 23 years at his alma mater, Fordham University's School of Law. He has contributed to legal scholarship by publishing seven law review articles and is frequent speaker at bar associations, law schools, law firms, corporations, and non-profit organizations. In 2009, he received the Professor of the Year Award from the Fordham Law School Public Interest Resource Center, and previously was awarded the Fordham Law School Alumni Association's Medal of Achievement in 2006. He currently cochairs the Fordham Law School Minority Mentor Program.

Judge Chin's dedication to public service extends to community leadership, and he is actively involved in local community and in legal associations. He is a member of the Second Circuit's bar association, the Federal Bar Council, formerly serving as the President, and currently serving on the Public Service Committee. Prior to assuming the bench, he also served on numerous community boards, including the Brooklyn Center for Urban Environment, Care for the Homeless, Hartley House, and St. Margaret's House. Upon assuming the bench, Judge Chin remained involved in his local community by becoming a member of numerous cultural organizations in New York. The outstanding dedication he demonstrated throughout his career and years of community involvement has led to numerous awards and honors—such as the J. Edward Lumbard Award for Public Service from the United States Attorney's Office for the Southern District of New York, and the Lifetime Achievement Award from the New York State Division of Human Rights.

The American Bar Association gave Judge Chin its highest rating, as he is an exceptional and highly competent judge. He has always followed a thoughtful, reasoned approach to each case, strictly adhering to the application of facts and legal precedent.

There are currently 129 judicial nominees waiting to be confirmed by this Senate. It is unfortunate that when there are such highly qualified nominees as Judge Chin, they cannot be quickly voted on so that they may begin to handle the many critically important cases that are currently pending in our Federal courts.

In conclusion, Judge Denny Chin possesses the judicial temperament, breadth of legal knowledge, and commitment to justice, civil rights, and the rule of law necessary for this appointment. He is well qualified, and I am confident that he would make an outstanding judge on the U.S. Court of Appeals for the Second Circuit. I urge my colleagues in the Senate to support his confirmation.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Denny Chin, of New York, to be U.S. circuit judge for the Second Circuit?

Mrs. BOXER. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be. The clerk will call the roll.

The bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from Delaware (Mr. KAUFMAN) is necessarily absent.

Mr. KYL. The following Senator is necessarily absent: the Senator from South Carolina (Mr. DEMINT).

Further, if present and voting, the Senator from South Carolina (Mr. DEMINT) would have voted ''yea.''

The PRESIDING OFFICER (Mrs. HAGAN). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 98, nays 0, as follows:

[Rollcall Vote No. 123 Ex.]

YEAS—98

Akaka	Ensign	Menendez
Alexander	Enzi	Merkley
Barrasso	Feingold	Mikulski
Baucus	Feinstein	Murkowski
Bayh	Franken	Murray
Begich	Gillibrand	Nelson (NE)
Bennet	Graham	Nelson (FL)
Bennett	Grassley	Pryor
Bingaman	Gregg	Reed
Bond	Hagan	Reid
Boxer	Harkin	Risch
Brown (MA)	Hatch	Roberts
Brown (OH)	Hutchison	Rockefeller
Brownback	Inhofe	Sanders
Bunning	Inouye	Schumer
Burr	Isakson	Sessions
Burris	Johanns	Shaheen
Byrd	Johnson	Shelby
Cantwell	Kerry	Snowe
Cardin	Klobuchar	Specter
Carper	Kohl	Stabenow
Casey	Kyl	Tester
Chambliss	Landrieu	Thune
Coburn	Lautenberg	Udall (CO)
Cochran	Leahy	Udall (NM)
Collins	LeMieux	Vitter
Conrad	Levin	Voinovich
Corker	Lieberman	Warner
Cornyn	Lincoln	Webb
Crapo	Lugar	Whitehouse
Dodd	McCain	Wicker
Dorgan	McCaskill	Wyden
Durbin	McConnell	

NOT VOTING—2

DeMint	Kaufman

The nomination was confirmed.

The PRESIDING OFFICER. Under the previous order, the President shall be immediately notified of the Senate's action.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will resume legislative session.

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period of morning business, with Senators permitted to speak for up to 15 minutes each.

The Senator from Wisconsin.

PROHIBITING A COST OF LIVING ADJUSTMENT FOR MEMBERS OF CONGRESS IN 2011

Mr. FEINGOLD. Madam President, over the years, Members of Congress have had a lot of perks, but one of them stands out; that is, the ability to raise their own pay. Not many Americans have the power to give themselves a raise whenever they want, no matter how they are performing. To make it worse, Members do not even have to vote on this pay raise. Congress has set up a system whereby every year Members automatically get a pay raise. No one has to lift a finger.

I do not take these pay raises, and I have been fighting for years to pass my bill to end this cozy system. Thanks to the majority leader, we took an important step last year when the Senate passed legislation to end automatic annual pay raises for Members of Congress. Unfortunately, the leadership of the other body has, so far, refused to take up that bill.

Well, I am going to keep fighting to pass it, but there is another step we can take in the meantime; that is, to make sure we do not get a pay raise next year. We already enacted legislation to block a pay raise this year, and now we have to do the same thing for 2011. With so many Americans looking for jobs and trying to figure out how to pay their bills, now is no time to give ourselves a taxpayer-funded $1,600 pay increase.

I have a bill to block the scheduled 2011 pay raise.

Madam President, I ask unanimous consent that Senators BURR, VITTER, BENNET, LINCOLN, GRASSLEY, MCCASKILL, BEGICH, and MCCAIN all be added as cosponsors to the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FEINGOLD. Madam President, I also ask unanimous consent that Senator WHITEHOUSE be added as a cosponsor to the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FEINGOLD. Madam President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 3244, a bill to prohibit a cost-of-living adjustment for Members of Congress in 2011; that the bill be read a third time and passed, and the motion to reconsider be laid upon the table; that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Is there objection?

Mr. LEAHY. Mr. President, reserving the right to object, I ask the Senator to add me as a cosponsor.

Mr. FEINGOLD. Madam President, I ask unanimous consent that the Senator from Vermont, Mr. LEAHY, be added as a cosponsor to the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FEINGOLD. Madam President, I renew my request.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 3244) was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 3244

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. NO COST OF LIVING ADJUSTMENT IN PAY OF MEMBERS OF CONGRESS.

Notwithstanding any other provision of law, no adjustment shall be made under section 601(a) of the Legislative Reorganization Act of 1946 (2 U.S.C. 31) (relating to cost of living adjustments for Members of Congress) during fiscal year 2011.

Mr. FEINGOLD. Madam President, I thank the Chair, and I will be urging the other body to pass this bill as soon as possible and send it to the President. I will keep fighting so that in the future the burden will be on those who want a pay raise—not on those who want to block one—to pass legislation.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Madam President, I believe the Senator from Vermont has a brief statement.

Mr. LEAHY. Madam President, I just wish to make a unanimous consent request.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Madam President, I thank my dear friend, the senior Senator from Missouri.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. LEAHY. Madam President, I ask unanimous consent that the Senate proceed to executive session to consider en bloc the following nominations on the Executive Calendar: Nos. 780, 781, 795, 796, 797, 798, 816, 817, 818, 819, and all nominations on the Secretary's desk in the Coast Guard, Foreign Service, and NOAA; that the nominations be confirmed en bloc; the motions to reconsider be considered made and laid upon the table en bloc; any statements relating to the nominations be printed

in the RECORD; the President be immediately notified of the Senate's action; and the Senate then resume legislative session.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

DEPARTMENT OF JUSTICE

William N. Nettles, of South Carolina, to be United States Attorney for the District of South Carolina for the term of four years.

Wifredo A. Ferrer, of Florida, to be United States Attorney for the Southern District of Florida for the term of four years.

David A. Capp, of Indiana, to be United States Attorney for the Northern District of Indiana for the term of four years.

Anne M. Tompkins, of North Carolina, to be United States Attorney for the Western District of North Carolina for the term of four years.

Kelly McDade Nesbit, of North Carolina, to be United States Marshal for the Western District of North Carolina for the term of four years.

Peter Christopher Munoz, of Michigan, to be United States Marshal for the Western District of Michigan for the term of four years.

Loretta E. Lynch, of New York, to be United States Attorney for the Eastern District of New York for the term of four years.

Noel Culver March, of Maine, to be United States Marshal for the District of Maine for the term of four years.

George White, of Mississippi, to be United States Marshal for the Southern District of Mississippi for the term of four years.

Brian Todd Underwood, of Idaho, to be United States Marshal for the District of Idaho for the term of four years.

NOMINATIONS PLACED ON THE SECRETARY'S DESK

IN THE COAST GUARD

PN1489 COAST GUARD nominations (6) beginning JOANN F. BURDIAN, and ending DAWN N. PREBULA, which nominations were received by the Senate and appeared in the Congressional Record of February 24, 2010.

PN1556 COAST GUARD nominations (4) beginning Karen R. Anderson, and ending Steven M. Long, which nominations were received by the Senate and appeared in the Congressional Record of March 10, 2010.

IN THE FOREIGN SERVICE

PN1404 FOREIGN SERVICE nominations (8) beginning Karen L. Zens, and ending Richard Steffens, which nominations were received by the Senate and appeared in the Congressional Record of January 26, 2010.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

PN1457 NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION nominations (12) beginning SCOTT J. PRICE, and ending SARAH K. MROZEK, which nominations were received by the Senate and appeared in the Congressional Record of February 22, 2010.

PN1458 NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION nominations (9) beginning HEATHER L. MOE, and ending KURT S. KARPOV, which nominations were received by the Senate and appeared in the Congressional Record of February 22, 2010.

Mr. LEAHY. Madam President, I thank the Presiding Officer, and I thank the Senator from Missouri.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will now resume legislative session.

The Senator from Missouri.

FINANCIAL REGULATORY REFORM

Mr. BOND. Madam President, after the actions of some bad apples on Wall Street wreaked havoc on Main Street, America, there is no doubt we need financial reform to prevent another credit crisis.

It is disappointing that bipartisan consensus on a financial reform package was not reached in committee and instead the majority chose a go-it-alone approach. I hope this is a process Democrats truly want to be bipartisan because my constituents have some good ideas about how to enact real reform that will not stifle economic growth and activities.

I have told my good friend Senator DODD and others that I want to work with them to ensure the concerns I have heard from Missourians—a thousand miles away from Wall Street—are addressed as the process moves forward. I have heard from Missourians who want to end too big to fail, and I have heard from Missourians who want to stop taxpayer-funded bailouts and Missourians who are fearful of empowering government bureaucrats with the power to pick winners and losers. I have also heard from folks in Missouri who are key to job creation. They have well-founded concerns about some of the bill's unintended consequences.

This is a bill that could alter significantly the way Americans do business with the financial services industry, whether it be in the form of a home or auto loan, financing for college, credit for family farms, or much needed financing for small business. In the heartland, where I am from, we understand Wall Street provides critical financing, but we want to make sure they do it the right way.

A bipartisan and responsible bill should ensure that the failures that led to our financial collapse are properly addressed and that taxpayers never again are left footing the bill for the egregious mistakes of a few bad actors. It is time to stop taking a piecemeal and ad hoc approach to addressing the financial crisis. Burying our collective heads in the sand to avoid what needs to be done and simply hoping things will get better by throwing more money at these failed institutions and just believing they will get better on their own is unrealistic.

Americans are rightfully angry and frustrated about the trillions of dollars the government has committed to rescuing the financial industry, when so many of them are still struggling to find jobs, pay bills, and get the loans they need for cars, home, college, or to farm. They believe—and rightly so—that it is fundamentally unfair for the bad actors who caused the financial crisis to get bailed out while many of them lost their jobs and their savings as a direct result of the irresponsibility of others.

We need a clear path to unwinding and ending these institutions that are too large and that pose systemic risk to the financial health of our market without doing so at the expense of the American taxpayer. No institution should ever again be considered too big to fail.

Today, I remind my colleagues that the government played a role in contributing to our financial and economic crisis. Government policies and actions to promote home ownership to buyers who could not afford to buy were irresponsible. That is why I am shocked that this bill does nothing to reform Fannie Mae and Freddie Mac, the government-sponsored enterprises that contributed to the financial meltdown by buying high-risk loans made to people who could not afford them. These irresponsible actions left the Federal Government with the risk and the American taxpayer with the bill to bail them out.

In addition to the cost to taxpayers, these irresponsible actions turned the American dream into the American nightmare for too many families who faced foreclosure and devastated entire neighborhoods and communities as property values diminished. Additionally, government failure to adequately regulate the financial system—specifically, the Securities and Exchange Commission and other regulators—allowed these institutions to take on too much risk, which was a major factor in the credit collapse. Collectively, these policies and actions have brought us to the economic crisis which has touched every American's life.

The current proposal ignores Fannie and Freddie, which were significant contributors to the crisis. That is a big mistake.

We need to be sure the proposals address the needs of Main Street America. Leaving them out would be another mistake.

Rather than focusing on the concerns of Wall Street, I have spent my time focusing on the concerns shared with me by my constituents back in Missouri. Missourians expect real reform but demand that Congress prevent an overreach of government that stifles businesses and kills jobs.

One specific area of concern is the creation of the so-called Consumer Financial Protection Bureau, the CFPB. This new, massive government bureaucracy has unprecedented authority and enforcement powers to impose duplicative and costly mandates on any entities that extend credit. We are not talking about just big Wall Street banks but also the community banker, the local dentist, farm lender, or auto dealer. As a result, there will be no choice but to pass these added costs on to consumers—the very people this bill was designed to protect.

The only way to ensure the CFPB does not unintentionally hurt well-performing institutions that issue credit

is to narrow the scope and authority with clear language outlining exactly whom this new regulator will regulate. Surely my colleagues would not want to vote for a bill that creates a new government bureaucracy without knowing exactly what the bureaucracy is empowered to do.

Instead of unlimited authority, this new regulator should focus on the shadow banking entities that operate outside of the regulatory framework and prey on vulnerable people. We have all heard horror stories from our constituents about the bad operators pushing no-money-down or no-doc home mortgages and the reverse mortgage scam artists who sell too-good-to-be-true financing.

There must be appropriate oversight of this regulator. The last thing we need is a new government bureaucracy that, under the guise of consumer protection, is really just pushing one party's political agenda. The current business climate is overwhelmed with uncertainty, and we need to ensure this bureau does not create additional uncertainty for any investor or business that operates in this country. The prudential regulators should have a final say on anything that would put the safety and soundness of institutions and the credit of borrowers at risk.

Next, Missourians refuse to be on the line for another bank bailout. I share their frustration over the concept of an institution being considered too big to fail. We must put an end to too big to fail. We need a mechanism in place that allows for immediate liquidation of failing financial firms.

In my recent conversation with Larry Summers, I expressed this concern, and he agreed that the administration wants euthanasia for failed companies, not resurrection. The government should not be in the business of creating zombies.

The era of bailouts must be over. Any mechanism of resolution must be fair and evenhanded. Missourians will not accept government bureaucrats picking winners and losers in creditor repayment.

In addition, the $592 trillion over-the-counter derivative market needs stronger rules of transparency. Some of the derivatives traded in this market played a significant role in the recent credit crisis through products such as credit default swaps. These and other transactions—which I call video game transactions, where there is no substance involved and they are making bets on the financial system—should have been cracked down on by the Securities and Exchange Commission.

However, there is an important distinction to be made here. Not all derivative contracts pose systemic risk. As a matter of fact, commercial contracts initiated, for example, by energy companies, utilities, and the agricultural industry are used to manage risks associated with daily operation, from cost fluctuations in materials and commodities to foreign currency used in international business. These end users, as they are called, do so in order to plan for future pricing so they can provide the least expensive good or service to their consumers as possible. Costly margin requirements for these end users will be directly passed on to families. This will increase the cost for Americans to turn on their lights and put food on their tables.

My hope is that the ultimate Senate bill, like the House-passed bill, will ultimately address this concern with a strong exemption for end users from the clearing and margin requirements. These end users are not major swap participants and should not be treated as such.

Finally, the Federal Reserve Bank's current structure for regulatory oversight ensures that responsibilities and power are shared across the country, not just in Washington and on Wall Street. Regional reserve banks give all regions in the country a voice in banking, credit policy, and monetary concerns, which gives a complete picture to the Board of Governors as they decide on Federal monetary policy. This system was established over 100 years ago and should be maintained in order to protect the concerns of small and medium-sized banks. Financial crises can and do occur within small but interconnected banks, which is why the Federal Reserve needs to continue to take the economic temperature of the entire country, not just of those on Wall Street.

As hard-working Americans and small businesses struggle to emerge from this meltdown and drive our economy through the recovery process, it is the responsibility of the Federal Government to ensure we have a robust regulatory system. It is critical that our regulatory system be modern, responsive, and empowered with appropriate authority, while allowing for business prosperity as we prevent future crises.

In Missouri, I have been working to build an agricultural biotech corridor. This has the potential to foster a whole new interest, providing great jobs in advanced agricultural research and biotech. It is the best stimulus to create high-paying, skilled jobs that rural Missouri and rural America need.

However, today I read in the Wall Street Journal a very disturbing report that this bill would possibly kill small business startups by delaying and limiting the availability of private investor seed capital. Small startups have been at the forefront, driving job creation. In this bill, new requirements by the SEC would insist that investors register with the Commission for a 4-month review, meanwhile tying up vital venture capital or seed capital dollars. This harmful delay for new businesses in need of immediate capital would be crippling.

According to the Wall Street Journal:

No one believes angel investors pose a systemic risk, so it's hard to understand why these proposals are in the bill. The economy needs more private job creation.

Incidentally, it would triple the minimum wealth of the seed capital investors who could invest in these from $1 million to over $3 million. That cuts out three-quarters of the people who might invest in starting up these companies. This would be devastating to rural job creation in Missouri and across the country.

Our greatest potential for new jobs depends upon the innovative ideas, the entrepreneurship of people who are willing to use their own time and ideas but need seed capital to do it. These small companies could not wait 120 days, in many instances. They could not find the seed capital investors. In other words, in sum, moving from too big to fail, this new bill, if enacted with that provision in it, would say to these innovators, these entrepreneurs: You are too small to succeed.

This is not a measure that is going to protect people from Wall Street; this is an overreach by the Federal Government which would shut down the job creation Main Street needs.

Neither political party has a monopoly on good ideas. Reforming our financial system is too important to be done on a partisan basis. I urge my colleagues, and I hope they will consider the ideas I have heard from Missourians. We haven't just been listening to Wall Street; we have been listening to Main Street. I hope the Presiding Officer and all of the Members of this body will listen to what they are saying on Main Street about the need for the small companies, whether they be startup companies or small banks, to succeed. We need to make sure we don't kill the backbone of our American economy.

Madam President, I thank the Chair. I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mrs. MCCASKILL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BURRIS). Without objection, it is so ordered.

EXECUTIVE CALENDAR

Mrs. MCCASKILL. Mr. President, I came to the floor on Tuesday of this week to do something I do not think had been done before under the rules. We had a new law that went into effect in the early part of 2007 that gave us a mechanism that was supposed to stop secret holds. We are all waiting to see if by moving all of the nominations by unanimous consent, in fact, the owners of the secret holds step forward.

While we wait to see if the rule that was designed and passed into law works, a bunch of us have been talking. The folks who have been talking about this are the newest Members of the

Senate in the Democratic Party. There are 21 of us who have arrived in the Senate sometime between now and January of 2007. It is a pretty big group of Senators.

In discussing the secret holds with my colleagues who have been here for a fairly short period of time, we decided: Why don't we just quit doing them? Let's quit worrying about whether you are identifying yourself in 6 days, whether you are going to play the switcheroo, pull your secret hold and put on another secret hold. Let's just stop it. No more secret holds.

We now have drafted a letter to Leader REID and Leader MCCONNELL, and we have said: First, we will not do secret holds. We are out of the business of secret holds. We are not going to do them. Second, we want the Senate to pass a rule that prohibits them entirely.

If a Senator wants to hold somebody, fine, but say who they are and why they are doing it. If a Senator wants to vote against somebody, that is their right. But this notion that they can, behind closed doors, do some kind of secret negotiation to get something they want from an agency—let's be honest about it; that is what a lot of this is. It is getting leverage, secretly getting leverage for something they want. Those are not appropriate secrets for the public business.

We have 80 secret holds right now. About 76 of those are Republican secret holds; 4 are Democratic secret holds. By the way, all 80 of the ones on which I made the unanimous consent request came out of committee unanimously. We even checked on the voice votes to make sure no one said no in committee. There were no ''no'' votes. These 80 nominees were completely unopposed out of committee.

They are everything from the Ambassador to Syria to U.S. marshals to U.S. attorneys. These are people who need to get to work. They are going to be confirmed. They are all going to be confirmed. We need to get this done. We need to stop secret holds. We need to get these people confirmed. We need to change the way we do business around here.

I, once again, give a shout-out to Senator WYDEN and Senator GRASSLEY who worked on this issue for a number of years. We are going to open this letter to all Members of the Senate and, hopefully, before we find out—we are all waiting to see what happens in the 6 days that are looming for all these secret holds, if people step up into the sunshine. If they do not, in the meantime we, hopefully, will get unanimous support from Senators that secret holds are now out of fashion and no longer going to be tolerated in the Senate.

Mr. President, I yield the floor for my colleague from Colorado, Senator BENNET.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. BENNET. Mr. President, I thank the Senator from Missouri for kicking off this discussion. I rise in strong support of this effort by a group of reform-minded Senators to finally get rid of this ridiculous and insane practice of anonymous holds. The American people have little patience for this political game when they are going through what they are going through.

What people should understand is, at least in my view, this is less about partisanship. The Senator from Missouri talked about the fact that these are people who passed unanimously out of committee, with Republicans and Democrats supporting the nominees who somehow, between the committee process and the Senate floor, got stuck. They are getting stuck anonymously. I say it is not about partisanship. I say this is a perfect illustration of Washington, DC, being completely out of touch with what is going on in the country.

No one else in the country invents a set of rules to make sure they do not get their work done. But that is what we are doing in the Senate. That is why I think it is high time we got rid of these anonymous holds. I would go even further. I have legislation that gets rid of the anonymous holds and bans these secret holds. But it would do more. It would also require that a hold be bipartisan or else it expires after 2 legislative days. If a Senator wants to place a hold, that is within their rights, but we are going to make sure it is scrutinized. We are going to make sure they can get support from somebody on the other side of the aisle for holding up the country's business. All holds under my bill would expire after 30 days, whether they are bipartisan or not.

I also wish to highlight that the Senators who have taken this strong stance against secret holds are willing to put our money where our mouth is. While Washington bats around about this and other reforms, we have all pledged that we will stop the practice of secret holds ourselves. It was easy for me to do because I have never placed a secret hold on the Nation's business, and I never will.

This is a small but important illustration of what is not working well in the Senate, what is blocking progress for the American people. It is a small step but an important step to demonstrate that we can actually do our work differently, that we have been sent here to have an open and thoughtful debate about the issues that confront our great country. I am proud to be here today with my other colleagues.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized.

Mrs. SHAHEEN. Mr. President, it is unfortunate that we have to be on the Senate floor this afternoon to talk about so many of the nominees we need to do the work of this country who are being held up, and being held up by people who are not willing to identify themselves or say what their issue is with these nominees.

I am pleased to join my colleagues. I am glad we are mounting this effort. We need to get rid of the secret holds. But it is unfortunate that we are where we are.

I understand why people are frustrated with what is happening here. People want to see things get done. They understand we have significant challenges facing the country, and they want to see action on those challenges.

It is clear that one of the areas where there is a problem is with the 80 or so people who were nominated who have been held up, some of them for months and months, because somebody has an issue, not with the person who is being held up usually, but as my colleague from Missouri said because someone wants to get the attention of a department or agency within government or because somebody wants to keep the Obama administration from doing the work of the people.

I wish to point out some of the people who have been on hold. No one has identified themselves as to why they had these people on hold. Until just a few minutes ago, we had five U.S. attorneys and five marshals. We have the Deputy Director of National Drug Policy Control. They come from States all across this country—from New York, Indiana, North Carolina, South Carolina, Michigan, Maine, Idaho, and Florida. We have a lot of big States there, a lot of States where the people's business is not getting done because those nominees have not been put in place.

The sad thing is, the people who have these folks on hold are trying to get back at somebody in government, but the people who are suffering are the constituents in those States where the work is not getting done.

I have a very personal example that I have talked about before on the floor of the Senate. A woman from New Hampshire who has now been confirmed to lead the Office of Violence Against Women, Judge Susan Carbon. This is someone who was appointed first by Senator JUDD GREGG to be a judge, and I then made her a full-time judge. She got through the committee on a unanimous vote.

I think all of us would like to see the work of the Office of Violence Against Women done, just as we want to see the work of the U.S. attorneys done and the work of the marshals done. Yet she was held up for 2 months, until I came to the floor and started asking questions about who had that secret hold on her. We never did find out. We never did find out why she was on hold or what the concern was. That is the problem with all these different holds.

Senator BENNET said he hasn't put any secret holds on anyone. Well, neither have I. If I am going to put a hold on somebody, I want the world to know about it because it is somebody whom I have a serious issue with or someone we have concerns about the job they would do. That is not the case with any of these folks.

So I would urge all my colleagues to sign on to say that they will oppose secret holds and to release those holds on the nominees who are being held up and let's let the work of the people in this country get done.

I yield the floor.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. UDALL of Colorado. Mr. President, I also rise to express my appreciation to the Senator from Missouri, Mrs. MCCASKILL, for her leadership on this effort to reform the way the Senate advises and consents. Because I have great respect for the traditions of the Senate, I was curious as to why holds are a mechanism or a tool available to individual Senators. What I found out is basically speculative; that is, that in the past, there is a belief that Senators—because they could only get back to Washington by horse and buggy or by horse itself—needed time to study a potential nominee. It was a courtesy. It maybe made sense in those horse-and-buggy times, but these are modern times, and the secret hold now, in particular, is being used to accomplish, in many cases, political or perhaps even policy goals. I have great respect for the venerable traditions of the Senate, but this seems like one that should be set aside, frankly.

I was also curious to study some of the statistics that I will share with the entire Senate. Since President Obama took office—I think it is 16 months, give or take a few days—we have voted on 49 nominations. Of those 49 votes, 36 of them—which is about 75 percent of the nominations—have been delayed. On average, these nominations languish or sit on the Executive Calendar for over 105 days. That is on average. Some have waited many months more. Then, when we look at the vote totals of the nominations that finally come to the floor, 17 received more than 90 votes, 10 received more than 80 votes, and 6 received more than 70 votes. So out of the 36 nominees, there were 33 that I think you could characterize as being approved overwhelmingly by the Senate, after a very long and unfortunate wait.

Right now, on the Executive Calendar, there are 94 nominees awaiting the Senate's advice and consent action. At this time in George W. Bush's Presidency, there were 12 nominees. So we have 94 on the one hand and 12 on the other hand.

It is time for my colleagues on the other side of the aisle to stop abusing the Senate's responsibility to provide advice and consent for the President's well-qualified nominees.

Let me just end on this note. If a Senator wants to place a hold, that is all well and good, but it shouldn't be a secret hold. As the previous two speakers have said—and I think Senator MCCASKILL as well—I have never used a hold. If I wish to put a hold on a nominee, I will make it public. I will make the case and take a stand on the floor of the Senate. That is the way we want our debates to be in the Senate—the world's greatest deliberative body. We shouldn't be doing things such as this in secret.

I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Ms. KLOBUCHAR. Mr. President, I listened to the Senator from Colorado, and I was thinking about our two States. They both are beautiful States. OK, they have a few more mountains than we do, but we have 10,000 lakes. We both have open democracies—governments that work, governments that are open. There is no secrecy in our States. We have blue skies, open prairies, open lands. To me, it is no surprise that we would have Senators from these two States standing and saying this is ridiculous.

I thought Senator UDALL did a great job of going through all the numbers and the nominations that have been put on hold, but we all know what is at the root of this. It is a procedural game that allows this to happen—the secret hold.

When I came to the Senate in 2007, my first priority was ethics reform. I was so pleased, and I thought we had gotten rid of the secret hold. That is what we said we did. The rule we adopted then—as soon as unanimous consent was made regarding a specific nominee—said that a Senator placing a hold has to submit to the majority leader a written note of intent that includes the reason for their objection. So they have to put in writing why they are objecting. Then it says that no later than 6 days after the submission, the hold is to be printed in the CONGRESSIONAL RECORD for everyone to see.

So we thought this was a pretty good idea—sunshine being the best disinfectant. By making the hold public and forcing Senators to be accountable for their actions, we could have open debate. As I heard Senator SHAHEEN just say, we should be able to tell the world why we are putting on a hold. We may have a good idea.

But that is not what has been happening. Instead, what has been happening is, Senators are playing games with the rules. They are following the letter but not the spirit of the reform. It is unbelievable to me. They are actually rotating holds.

It is sort of like what we see in the Olympics, where they have a relay and they hand off the baton. This baton is going from one Senator to another so they can keep the hold going. One Senator has it for 6 days. Then it is passed off to another for 6 days. So I guess if delay was an Olympic sport, they would get the Gold Medal.

What we have is a group of Senators from the other side of the aisle, for the most part, who are gaming the system. We have been spending a lot of time in the last few days talking about other people who game the system—people on Wall Street—so I don't think it should be happening in this very Chamber.

I am very pleased Senator MCCASKILL, along with Senators GRASSLEY and WYDEN, have been working on this for so long and have taken a lead on it. I urge my colleagues to sign this letter to end the secret hold. There shouldn't be secrets from the public when it comes to nominations. This isn't a matter of top-secret national security or some strategy that we would use when we go to war. This is about nominations from the White House. This is about people who are going to be serving in public jobs. We should know who is holding them up, who doesn't want them to come up for a vote and why. Then we can make a decision and the public will have the knowledge of what is going on in this place. That is the only way we are going to be able to build trust again with this democracy.

I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BENNETT. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

FINANCIAL SERVICES INDUSTRY REGULATION

Mr. BENNETT. Mr. President, I rise to discuss the issue that is before the body and before the country right now with respect to control and regulation of the financial services industry. The President of the United States has given a number of speeches on this one. I understand the latest one was today, in which he attacked Republicans for listening to the big banks of Wall Street in our concern about the details of the bill that has been offered out of the Banking Committee by Chairman DODD.

I am a member of the Banking Committee. I voted against the bill in the Banking Committee. It came out on a straight party-line vote. For that I am being castigated by the President and others for being a tool of Wall Street and the big banks.

I want to make it very clear that my opposition to parts of this bill have nothing whatsoever to do with Wall Street and the big banks. I have not been to Wall Street to discuss this with any executives of any of the big banks. I have been in Utah, and I have been discussing this with businesses in Utah, businesses that you normally would not think would have any interest whatsoever in regulation of financial services.

We think of financial services as insurance companies and brokerage houses and banks. What I have discovered, hearing from my constituents, is that the people who are the most worried about this are small business men and women who have nothing to do

with banking but who do have a program in their business to extend some degree of consumer credit.

I will give an example: a furniture store that sells furniture and advertises you buy the furniture now and payment is delayed for 90 days as a come-on to get people to come in. Mr. President, you have seen those ads in the paper in Washington. I have seen those ads. It is the kind of thing that goes on.

Businesses extend credit in one way or another. It is not the core of their business, it is just a way of trying to attract customers. Suddenly they discover, if this bill passes, they will be under the control of the Consumer Protection Agency that is being created for this, and Federal officers will have the right to show up on their premises and say: This is not a proper handling of this credit. We are going to treat you as if you were Citicorp or Goldman Sachs or whatever. We are going to come down with the heavy hand of the Federal Government to tell you how you can do your business and fine you or produce other kinds of barriers to your doing business.

The fellow says: Look, I just want to sell a sofa, and I just want to be able to sell it on credit to somebody who wants to buy it on credit. What is wrong with that?

No, under the terms of this bill, the Consumer Protection Agency of the Federal Government will be looking down your throat.

As I move around the State, I have one small business man or woman after another come up to me and say: What in the world are you people in Washington thinking about, the kinds of regulations you are going to put on me and my business? Some of them are saying they are afraid they are going to have to close their doors rather than deal with this significant challenge.

We are, in this bill, overreacting to the seriousness of the crisis that has put us in this recession. I have a friend who has been a Washington observer for many years, and he says whenever faced with a crisis, Congress always does one of two things: nothing or overreacts. This is a classic example of overreacting.

By creating a Consumer Protection Agency with the sole focus to protect the consumer, we run the risk of doing the kind of damage I have described to small business. I say to people, if safety is the only criterion by which you are going to judge an institution, the safest institution in which no one will lose any money is the one whose doors are closed, the one that offers no risk anywhere because all business is a risk. If you are going to say, no, you are going to protect the consumers absolutely, the way to protect the consumers absolutely so that they will never lose a dime is not allow them to make a purchase, not allow them to ever get a loan, not allow them to ever receive any credit.

If this bill passes in the form it came out of the House Banking Committee, that will be the impact of this bill. Across the board it will be to reduce credit, it will be to reduce opportunity, it will be to damage small businesses.

Again, I have not talked to the people on Wall Street. I have talked to the people on Center Street—I would say Main Street because every town in America has a Main Street, but in Utah, in addition to Main Street, we have Center Street in many of these small towns. That shows how close to the issue the people in Utah are.

There is another issue I feel strongly about, and that is the definition of ''too big to fail.'' This creates and solidifies the notion that some people, some institutions are too big to fail. I believe one of the lessons we have learned out of the crisis we went through starting in September of 2008 is that nobody should be deemed too big to fail; and, indeed, we should create a circumstance where the bankruptcy courts handle things and there is no Federal bailout in the fashion of saying: You are too big to fail and the government will protect you from failing.

I remember years ago when we had the first bailout with Chrysler at the time. Lee Iacocca made his reputation bringing Chrysler out of the bailout and repaying the government with interest. People point to that and say: The government kept Chrysler from going under. The money was repaid. It was just a loan guarantee. The government didn't lose any money.

I remember one observer, when asked about it, said: I am not worried about whether the bailout will save Chrysler. What I am worried about long term is that it will work.

There were people saying: What happens if it fails?

He said: I am not worried about it if it fails. I am worried about it if it works and the Federal Government gets the appetite to step in, in example after example, and always point to the Chrysler bailout and say: Well, we made money on that, so we can do it again.

By creating that kind of moral hazard of stating these institutions are too big to fail, we run the risk of seeing a repetition rather than avoidance of the crisis we had that created all of the difficulties in our economy today.

So, on the one hand, I speak for the small businessman and the small businesswoman who say this bill will be a disaster for them. On the other side, I say let's not create, in the name of protecting the customer, a circumstance where institutions are deemed as too big to fail and can be guaranteed, once again, a degree of government backing that the marketplace would not give them. I trust the marketplace. We have learned to do that as we go through the wreckage of what happened in the housing crisis.

I think we need to be very careful with this bill. Do we need financial reform? Yes, we do. Would I vote for a sensible bill? Yes, I would. Am I a supporter of the status quo? No, I am not. But I do not believe the bill that came out of the Banking Committee is an improvement.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

EARTH DAY

Mr. CARDIN. Mr. President, I take this time to commemorate the 40th anniversary of Earth Day that we celebrate today, April 22.

I think we first need to acknowledge that we have made a lot of progress since the Cuyahoga River in Ohio caught fire in 1969. We have made a lot of progress since the uncontrolled air pollution that killed 20 people and sickened 7,000 people over just a few days. That happened in Donora, PA. We have came a long way since the exposé on the New York Love Canal, where toxic waste was dumped into neighborhood streams.

We have made a lot of progress. I think the most important symbol of that progress is that the environment is now in mainstream America. It is mainstream politics. It is a way of life for us, and that is really good news. It has given us the political strength to pass important environmental laws. We passed the Clean Air Act, the Clean Water Act, the Superfund law. I am particularly pleased about the Chesapeake Bay Program. I remember when we started that program almost 30 years ago. It was a difficult start, and people wondered whether we would have the power to stay with this issue so that we could try to reclaim the Chesapeake Bay. Well, we did. It is still an issue we are working on today. We created the Environmental Protection Agency, an agency in the Federal Government with the sole purpose to try to help us preserve the environment for future generations.

I think we can take pride in what we have been able to do. We have made great progress as a nation. We should celebrate our success in addressing the great environmental challenges of the past. But our work is not done. Our environment faces new challenges today that are less visible and more incremental but still pose great threats to our treasured natural resources and all the work we have done to protect and restore them. For example, we do not worry that our great water bodies such as the Chesapeake Bay will catch fire, but there are small amounts of pollutants running off millions of lawns that accumulate and make it very difficult for us to reclaim our national treasures.

The great wave of water infrastructure we built over 40 years ago is now past its useful life and must be replaced. Water main breaks, large and small waste water, destroy homes and businesses, and undermine the water quality benefits this infrastructure was meant to protect.

Let me just give you a couple of examples that have happened in the last

couple of years. In Bethesda, not very far from here, River Road, a major thoroughfare, became a river because of a water main break. In Dundalk, MD, right outside of downtown Baltimore, thousands of basements were flooded as a result of a water main break. In Baltimore County, just a few weeks ago, we had a water main break that denied residential homeowners water service for many days. This is happening all over. In the city of Baltimore, 95 percent of their water mains are over 65 years old and have not been inspected. We need to pay attention to these issues.

If I had to mention the single most important challenge we face, it is in our energy policies. We all understand that, the impact it has on our environment, but we should also acknowledge that doing the energy policy right will be good for our national security. We spend $1 billion a day on imported oil. That compromises our national security.

For the sake of our national security, we need to develop a self-sustained energy policy on renewable energy sources. For the sake of our economy, we need to do that. We developed the technology for solar power and wind power. Yet we are not capitalizing on the jobs here in America. Jobs are our most important goal. A sound energy policy will allow us to create more jobs here in America.

But today, on Earth Day, I want to talk about the environment. A sound energy policy means we can become a world leader and bring this world into some sense on what is happening on global climate change, on the indiscriminate release of greenhouse gas emissions by the burning of fossil fuels and nitrogen and carbon into the air. We know we can do better on that.

So on this Earth Day, let's rededicate ourselves to develop an energy policy that will be not only good for our security and our economy but good for our environment. Addressing the failing health of our world is not just in the hands of our political leaders alone. Each of us can make a difference by changing the way we live and move about the Earth. Our history shows us that bold and courageous actions by all of us to tackle our environmental challenges make us stronger, more vibrant, and a healthier nation. That should be our message on this Earth Day.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

UNANIMOUS CONSENT REQUEST—EXECUTIVE CALENDAR

Mr. DORGAN. Mr. President, I had informed my colleague from Louisiana that I would come to the floor to once again ask unanimous consent on an issue he has been holding or blocking, and it is the issue of the promotion of General Walsh, a distinguished American soldier who has served his country for 30 years and served in wartime, who has been approved to have a promotion to the rank of major general by the Senate Armed Services Committee, and that committee approved that promotion unanimously, the committee headed by Senators CARL LEVIN and JOHN MCCAIN. Both strongly support the promotion of General Walsh. That support was given and the notice of promotion was voted on by the Armed Services Committee in September of last year.

This soldier's career has been put on hold by the hold of one Senator, the Senator from Louisiana. I informed him that I would speak on the floor on this, so I am not being impolite. I normally would not speak of another person solely on the floor of the Senate. Yet the Senator from Louisiana is the one who has exhibited the hold to prevent the promotion of this soldier.

I know this soldier. That is not why I am on the floor. I know General Walsh. He commands the Mississippi Valley Division of the Corps of Engineers and does a great job, in my judgment. But, again, his career has been stalled by the actions of one Senator.

That Senator indicates there are certain demands he has of the Corps of Engineers and unless they are met, he will not allow this soldier to be promoted. The point is, this solder executes; this solder is not making policy in the Corps of Engineers, and he cannot do what the Senator from Louisiana demands he do. The Corps of Engineers does not have the legal authority to do what the Senator from Louisiana demands he do.

I have put in the RECORD the two letters the Senator from Louisiana has given to the Corps of Engineers making certain demands. I have put in the RECORD the response from the Corps of Engineers.

I believe 2 days ago when we had this discussion that my colleague from Louisiana indicated the corps had missed 14 deadlines or deadlines on 14 reports and he was not happy with the Corps of Engineers. I went back and found out what that was about. Let me just say that 10 of those 14 reports dealt with the Louisiana coastal area. All of those reports were authorized in WRDA 2007. Prior to initiating the studies, the corps was required by other law that exists to execute a feasibility cost-sharing agreement with the State of Louisiana. To cost share the study would result in the feasibility report. At the State of Louisiana's request, the corps did not execute this agreement until June of 2009. I can describe the other four as well.

But to come to the floor and suggest that somehow the Corps of Engineers is slothful and indolent, or at least slothful, for missing a deadline on reports, 10 of which they missed because the State of Louisiana requested they be delayed—I don't know, it seems to me that this may not be on the level.

Let me make one final point. When a natural disaster hit Louisiana and New Orleans, I was one of those who cared a lot about reaching out to say: You are not alone. And it was not just me; it was all of my colleagues. But I chair the subcommittee that provides the majority of the funding for this. We provided all of the funding for the Corps of Engineers. The fact is, we have put—listen to this—$14 billion—$14 billion—into New Orleans and Louisiana. I am proud of having done it. It is what we ought to do as a country. But I must say that it wears out the welcome a bit for someone to come to the floor to disparage the Corps of Engineers and the efforts of the Corps of Engineers. That $14 billion—much of that runs through the Corps of Engineers, and I wonder where that city and that State would be without the Corps of Engineers to be engaged with them in these battles.

So let me say to my colleague from Louisiana that demands being made of the Corps of Engineers that the corps cannot possibly comply with because the law will not allow them to comply are demands that are never going to be met. To hold up the career of one distinguished soldier who has served in wartime because the corps cannot meet demands required by the Senator from Louisiana is unfair. It is always and will always be a disservice to uniformed soldiers anywhere to hold hostage promotions of soldiers in order to get demands that cannot possibly be satisfied.

So I am going to once again ask unanimous consent that the nomination that has existed on this calendar since September of last year to promote a distinguished soldier who has a distinguished record—I am going to ask once again that, at long last, perhaps my colleague will relent and allow the promotion to proceed and allow this soldier's career to continue.

I ask unanimous consent that the Senate proceed to Executive Calendar No. 526, the nomination of BG Michael J. Walsh; that the nomination be confirmed, the motion to reconsider be laid upon the table, any statements related to the nomination be printed in the RECORD, and the President be immediately notified of the Senate's action.

The PRESIDING OFFICER. Is there objection?

The Senator from Louisiana.

Mr. VITTER. Mr. President, as my colleague knows, I object. Let my say why I object.

The PRESIDING OFFICER. Objection is heard.

Mr. VITTER. Mr. President, may I proceed?

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

Mr. VITTER. Let me explain why I object, as I have explained very openly, very clearly every step of the way. Michael Walsh is one of the top nine officers of the U.S. Army Corps of Engineers. He is part of the key leadership.

Senator DORGAN is a fierce, active, vocal defender of that bureaucracy, but before he continues and plunges into

that fierce and vocal defense, I suggest he step back for just a minute and truly think about and understand what he is defending. Before he accepts every suggestion, every argument of the Corps of Engineers' bureaucracy, I suggest he step back and look at the history of the corps and look at the source he is accepting as gospel truth.

Senator DORGAN mentioned Hurricane Katrina, called it a great natural disaster. It was a great natural disaster, a horrible natural disaster. It was also a horrible manmade disaster because if we want to talk about the greatest damage—not the only damage but the greatest damage—inflicted upon the country from Hurricane Katrina—the flooding of the city of New Orleans—that was manmade by the Corps of Engineers.

That was due directly to the design flaws of the outfall canals in New Orleans by the Corps of Engineers. The Corps of Engineers has admitted this, and we have laid that out in congressional testimony since Katrina. The problem is, no one in that bureaucracy has ever been held accountable for that. I don't want to focus on looking back. The even greater problem is looking forward because that bureaucracy has not fundamentally changed.

I challenge my distinguished colleague, Senator DORGAN, to spend half as much time working with others to change the truly broken bureaucracy of the Corps of Engineers, spend half as much time as he has spent as a fierce, active, and vocal defender of that broken bureaucracy.

I am fighting for that change. I will continue to fight for that change. I will use every tool available to me as a Senator to do so. For instance, in the last WRDA bill, I worked very hard to craft language to include in the bill the Louisiana Water Resources Council, an outside peer review body, to bring outside, independent expertise and analysis to work with the corps on key projects following Hurricane Katrina. That was included in the 2007 WRDA bill. It passed into law. Do my colleagues know what the corps did to implement that? Nothing. Do they know how they acted to move that forward, an absolute, clear, statutory authorization from Congress? They did nothing. They said they are not going to do it.

Finally, I got them to change their tune. Finally, they are committed to beginning to move forward 3 years later, but I had to get their attention through this scenario.

Unfortunately, that is not the only item on which they have ignored mandates from Congress and ignored pressing needs all around the country, including my part of the country. I tried to pinpoint specific items where they were not living up to their mandate or to Congress's direction. I could have listed dozens. Instead, I focused on nine specific items. I worked closely with the corps, had several meetings discussing those items in an abundance of trying to work with them toward resolution. After that, I focused on three of the nine, rather than all nine. I laid out why they did have the authority to move forward in some positive way on all that. I am going to continue to do so until we get real, positive change at the corps and real, positive progress on these important issues.

The Senator's main argument, apparently spoon-fed by the corps, is that the corps has no authority to do anything in these areas, no authorization language from Congress. That is flat wrong. Again, before the distinguished Senator simply accepts every little e-mail, every little memo the corps feeds him, perhaps he should consider the source of that information. If the corps was always right, New Orleans would have never flooded. If everything the corps said was good and true and gospel, we would never have had those billions of dollars of damage in terms of the catastrophic flooding of New Orleans caused solely by breaches in canals which were design flaws of the Corps of Engineers.

Let me go through a few specifics and explain—I have done this with the corps over and over—the authority they do have. One of my top concerns—

Mr. DORGAN. Will the Senator yield?

Mr. VITTER. I will yield when I am through. One of my top concerns is the critical outfall canals in New Orleans. It was the breaches in those canals that led to 80 percent of the catastrophic flooding of New Orleans. It was those breaches that were caused by design flaws of the U.S. Army Corps of Engineers. All I am asking under this category is that the corps do a risk/cost analysis of the different options they have identified in terms of fixing the outfall canals.

The reason I am concerned about the path they are moving down, which is their option 1, is that I truly believe it is much less safe and much less robust than their identified option 2. It is not only I who believes that. It is the corps who admits it. In the corps' report to Congress, which we mandated, the corps itself said: Option 2—that is the option they are rejecting—is generally more technically advantageous and may be more effective operationally over option 1 because it would have greater reliability and further reduces the risk of flooding.

In addition, Chris Accardo, the corps' chief of operations in New Orleans, said he is in favor of option 2 over option 1, absolutely.

In light of that, all I am asking, with the rest of the Louisiana delegation, with all the affected communities in southeast Louisiana, is that the corps perform a risk/cost analysis comparing these different options before they forge ahead building the option they themselves admit is less safe, less dependable.

It is also important to note that the corps clearly has authorization from Congress to do this study. General Van Antwerp, in my office, clearly said they do. They have authorization. They have authority. They can do the study. They are not going to do it. Why don't we compare these options, the relative risk and the relative cost, before the Corps of Engineers plunges ahead to build the option they themselves say is less secure and less safe?

The second key issue I have focused on in my letters to the corps is the mandated AGMAC project, including the buildup of protection banks in Vermilion Parish to give that parish greater protection from storm surge. They were devastated during Hurricane Rita, in particular, and also in significant events since then. Again, the corps has authority to do this project. This project is in the WRDA bill. The corps says: We have busted our spending limits. We have explained to them various ways they can solve that problem by using O&M funds, exactly as they have used O&M funds for bank buildup in the MRGO project. We have given them another route, to use the CWPPRA program in conjunction with the WRDA-mandated project. The corps' response has been pretty simple. Its response has been: No, we don't want to do it.

Third and finally, the other big concern I have highlighted and the most obvious case of the Corps of Engineers ignoring the mandate of Congress, not having authorization, actively ignoring the mandate of Congress, is the critical Morganza to the gulf flood protection project. That project was initiated in 1992, 18 years ago. Senator DORGAN, the distinguished Senator from North Dakota, wants to say that the corps has no authority in this area. This project was included in three different water resources bills, once, then twice, and then a third time. Every step of the way, the corps has come up with excuses why they cannot move forward. Under their present plan, they are restudying the project, and that restudy is due in December 2012. There is one little problem with that. That will be after the next water resources bill, which we hope to pass in 2011. All the people of LaFourche and Terrebone Parishes who are going without adequate protection, who are in danger every additional hurricane season, having missed three WRDA trains because of the foot-dragging of the corps, now under the corps' present plan, they will miss a fourth.

We wish to talk about authorization from Congress. Is specific, full construction authorization in three WRDA bills not good enough? If that is not good enough, I don't know how to meet the corps' criteria.

If those three particular concerns are not enough, we can expand the list. In an attempt to work with the corps, in an attempt to find resolution, I have narrowed the list. I have tried to compromise. I have offered to meet with them. I am offering to meet with them again, as I have done consistently throughout the process. But if narrowing the list is going to be held

against me, we can expand the list. How about the final report of the Louisiana Coastal Protection and Restoration effort, a comprehensive analysis mandated in Public Law, an emergency appropriations bill after Hurricane Katrina? It was due in December 2007. It is not finished. It is not delayed because of the State of Louisiana. It is delayed because of the corps.

I know Senator DORGAN is anxious for a promotion of the corps leadership. I have to say, I am anxious for this critical report that was due in December 2007. We haven't seen it.

Is that not good enough? How about the Louisiana Water Resources Council I talked about? That was mandated in the 2007 WRDA bill. The corps has not produced it yet. It wasn't just authorized; it was mandated. It is not up and running. Senator DORGAN is anxious for a promotion for the pristine corps leadership. I am anxious for that.

How about the establishment of a Coastal Louisiana Ecosystem Protection and Restoration Task Force? That was mandated in the 2007 WRDA. We haven't seen that yet. The integration team under that task force was a separate team mandated in the 2007 WRDA, 3 years ago. Nowhere to be seen. That is not being held up by the State. That is the corps. Clear authorization, clear mandate, nowhere to be seen.

How about a comprehensive plan for protecting and preserving the Louisiana coast? That was due in November 2008. That was mandated in the 2007 WRDA. It is not being held up by the State, but it is nowhere to be seen. Senator DORGAN is anxious for promotion for the pristine corps leadership. I am anxious for this important work to protect Louisiana citizens.

That is not the whole list. How about the Mississippi River Gulf Outlet Ecosystem Restoration Plan? That was due in May of 2008. We haven't seen it. It has not been submitted. It is a corps report, not a State of Louisiana report. Nowhere to be seen.

How about section 707 of the WRDA? That actually mandates that the State can get credit from one project and it can be transferred to another project. It is in clear language. The corps says they are not going to do it. You want clear authorization? We have it. The corps is ignoring it.

How about section 7006 in the same 2007 WRDA. That requires that five construction reports be submitted to Congress to move forward with key projects authorized in that WRDA, five critical projects. They are authorized in the WRDA bill. They can't move forward until those construction reports are submitted by the corps.

We have not seen the first thing of any of those five reports. The State is not holding them up. We are waiting on the corps. The distinguished Senator is anxious about a promotion for the pristine corps leadership. Well, great. I am anxious to see that mandated report.

We can go on and on. The point is——

The PRESIDING OFFICER. The Senator's time has expired.

Mr. VITTER. Mr. President, I ask unanimous consent for 2 additional minutes.

Mr. DORGAN. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

The Senator's time has expired.

The Senator from North Dakota.

Mr. DORGAN. Mr. President, my colleague from Louisiana describes me as anxious. I will tell you what I am anxious about. I am anxious to have a Member of this Senate stop using a U.S. soldier and the promotion of a soldier as a pawn to meet certain demands. I am anxious never to see that happen again.

We are talking about a soldier who has served in wartime, has served 30 years, who, 6 months ago, was supposed to have been promoted by a unanimous vote of the Armed Services Committee under the leadership of CARL LEVIN and JOHN MCCAIN. Six months later, that soldier's career is on hold because of one Senator.

I wish to say this. I think it was Will Rogers who said: It is not what he says that bothers me. It is what he says he knows for sure that just ain't so. I have just heard the most unbelievable amount of fiction on this floor. Let me describe some of it. My colleague has just gone through a tortured lesson in the most unbelievable interpretation of the authority and the law with respect to the Corps of Engineers.

I said when I started today that we have put $14 billion into New Orleans and Louisiana. I have been proud to be a part of that as chairman of the subcommittee on Appropriations that actually funds these issues—$14 billion. But I will say to my colleague, my colleague is fast wearing out his welcome with me and I expect the Corps of Engineers with this kind of behavior.

I do not normally do this personally, but I tell you what, when a soldier serves his country and then my colleague says to that soldier: I am not going to allow you to be promoted until the Corps of Engineers does what I demand, when, in fact, the Corps of Engineers cannot legally do what he demands, then I say that is using a soldier's promotion as a pawn, and I think that is unbelievably awful to do.

I wish to say this. My colleague described—in fact, he said I was using information the corps feeds me. He went into a whole series of pieces of language, suggesting we have all swallowed the minnow somehow.

Let me say this. On the first item my colleague raised, he forgot to make one important point. He said: I demand they do this. That is the first issue of his letter to the Corps of Engineers—the outfall canals and pump to the river. I demand they do this, he said. Well, they cannot do that, actually. What he is proposing, by the way, for his State and his city is to spend more money for less flood protection. That is what he is proposing.

The corps will not do it, and I will tell you why. He knows why, but he would not tell the rest of the folks here. But we actually had a vote on that in the Senate Appropriations Committee. Guess how that vote came out. The majority of the Democrats and the Republicans on the Appropriations Committee said: We do not intend to spend more money for less flood control protection. We do not intend to do that. We voted no. It is just one little piece of information my colleague left out on the floor of the Senate. Convenient perhaps, but, nonetheless, he left it out.

I am not going to go through this. We have the majority leader and the minority leader on the floor. But I offered, as a courtesy, to tell the Senator from Louisiana when I was coming to the floor today. He did not extend the same courtesy to me when I asked him to yield so I could make a point about the vote, so I will not be extending that courtesy in the future.

I am going to come to the floor again on a unanimous consent request saying: Let's have one person in this Senate stop using the promotion of a dedicated, decorated, American soldier as a pawn in order to meet demands that the Corps of Engineers cannot meet. My colleague seems to think somehow that the Corps of Engineers is something, an organization without merit. I will say this to him: There are plenty of things wrong with, I suppose, every government agency and every government organization.

But I will say this. If you know much about the Corps of Engineers, you are not going to want to be in a big flood fight without them as a partner. Oh, they have made mistakes, I tell you. But nobody has had more floods than we have had in North Dakota, I expect, over a long period of time, and I wish to see the corps as a partner in the flood fight because they are good. They know what they are doing.

Yes, they have made mistakes. But when my colleague comes to the floor of the Senate and says there are 14 reports, the Corps of Engineers blew it—14 reports—they cannot meet any deadlines, he does not tell the rest of the story. I went and checked on those 14 reports. Let me describe 10 of them. I will not describe the other four because it would take some time. But for 10 of the reports the deadline was not met on, it was because the reports required there be the execution of a feasibility cost-sharing agreement with the State of Louisiana, and at the request of the State of Louisiana, the corps did not execute the agreement until June of 2009.

So my colleague criticizes the Corps of Engineers, calls them a bunch of elitists. He says they miss all these deadlines. Well, at least on 10 of the deadlines the State of Louisiana asked them not to proceed with respect to that agreement until June of 2009. That is fundamentally unfair—fundamentally unfair.

With respect to Morganza to the gulf—and I could go through a whole

list of things to demonstrate that—as much as my colleague would like for the corps to have complete authority and funding to do everything he would like and then for them to say: Yes, absolutely, whatever you like, we are willing to do—as much as he would like that, he is flat out dead wrong when he says they have the authority to do these things.

I put the demands in the RECORD, two letters from my colleague. They are in the RECORD and I have read and will read—but I will not do it now because my colleagues are here and waiting to speak.

Mr. REID. Mr. President, will my friend yield for a unanimous consent request and then the Senator will maintain the floor?

Mr. DORGAN. Mr. President, I will be happy to yield without losing my right to the floor.

Mr. REID. I will say to my friend, we have 99 other holds, but this one, I will have to acknowledge, is a little egregious. One of our finest military people is being held up for this. There are ways we can move around this, and we will do it as quickly as we can with cloture.

I appreciate my friend yielding.

The PRESIDING OFFICER. Without objection, the majority leader is recognized.

Mr. VITTER. Mr. President, I ask unanimous consent for 30 additional seconds.

Mr. REID. Mr. President, we have to get this done. OK.

The PRESIDING OFFICER. The majority leader is recognized.

RESTORING AMERICAN FINANCIAL STABILITY ACT OF 2010—MOTION TO PROCEED

Mr. REID. Mr. President, I ask unanimous consent that at 3 p.m., Monday, April 26, the Senate proceed to the consideration of Calendar No. 349, S. 3217, a bill to promote the financial stability of the United States by improving accountability and transparency.

The PRESIDING OFFICER. Is there objection?

Mr. MCCONNELL. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Republican leader.

Mr. MCCONNELL. Reserving the right to object, and I will object, here we go again. The majority leader is once again moving to a bill, even while bipartisan discussions on the content of the bill are still underway.

Just about an hour ago, the majority leader said:

> I'm not going to waste any more time of the American people while they come up with some agreement.

Well, I do not think bipartisanship is a waste of time. I do not think a bill with the legitimacy of a bipartisan agreement is a waste of time.

Is it a waste of time to ensure that the taxpayers never again bail out Wall Street firms? Is it a waste of time to ensure that the bill before us does not drive jobs overseas or dry up lending to small businesses? Is it too much to ask, should an agreement be reached, that we take the time to make sure every Member of the Senate and our constituents can actually read the bill and understand the details?

This bill potentially affects every small bank and lending institution in our country. It has serious implications for jobs and the availability of credit to spur economic growth. It has important consequences for the taxpayers, if done incorrectly.

I think Americans expect more of us. I think they expect us to take the time to do it right. I would add, my impression was that serious discussions were going on. I think they should continue. Therefore, Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

The majority leader.

Mr. REID. Thank you, Mr. President.

Here we go again. This is a bill that has been out here for a month—weeks. I think people even reading slowly would have a chance to work their way through that in a month. This Kabuki dance we have been involved in for months now—my friend, and he is my friend, the ranking member of that committee, the distinguished senior Senator from Alabama, worked with the chairman of the committee for weeks and weeks—weeks going into months—trying to come up with a deal we could move forward on. That was no longer possible. No negotiations went on. My friend from Alabama said that is enough.

Then we get the Senator from Tennessee coming in and spending weeks with my friend, the chairman of the Banking Committee, Senator DODD. That fell through.

We are moving to this bill because we need transparency, we need accountability, we need someone to respond to Wall Street because they have not responded to us.

This game is apparent to the American people. My friends on the other side of the aisle are betting on failure again, as they did with health care, as they have done on everything this year. They did not get—health care was not Obama's Waterloo. Maybe they want this to be his Waterloo, but it is not going to be. We are going to move forward on this piece of legislation because the American people demand it.

I have said publicly on many occasions, we need to get on this bill. Remember, we are not finalizing the bill. We are asking for the simple task we used to do easily: move to the bill. I am only asking permission to get on the bill—to get on the bill—and then start offering amendments. I am not asking everybody to approve the bill as it is written. All I am asking for is we move to the bill.

If there is an agreement reached between the ranking member and the chairman of the committee, it is easy to take care of that. There would be a substitute amendment. They would agree to it and probably it would be accepted pretty easily. So to think this is some way to bail out Wall Street firms is an absolute joke. Read the bill.

So in light of the objection, I now move to proceed. I am moving to proceed. It takes me 2 days. It takes the Senate 2 days for this to ripen. We are going to have a vote Monday. We should be on the bill today offering amendments, having opening statements on the bill. Those who think it is good, say something good about it. Those who think it needs to be improved, improve it. But, no, we are going to waste the next 4 days getting on the bill.

CLOTURE MOTION

So in light of the objection, I now move to proceed to Calendar No. 349, S. 3217, and I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the motion to proceed to Calendar No. 349, S. 3217, the Restoring American Financial Stability Act of 2010:

> Harry Reid, Christopher J. Dodd, Byron L. Dorgan, Mark Udall, Roland W. Burris, Daniel K. Inouye, Sherrod Brown, Robert P. Casey, Jr., Mark Begich, Patrick J. Leahy, Tom Udall, Patty Murray, Tom Harkin, Richard J. Durbin, Frank R. Lautenberg, Benjamin L. Cardin, Bill Nelson, Jack Reed.

Mr. REID. Mr. President, just so the American public knows this also, if there is an agreement reached between Senators DODD and SHELBY and anyone objected to that agreement, I would have to start all over with a bill because it would be a new bill and we would have the same games being played. So if they can come to an agreement, more power to them. They will work this out as an amendment to the bill or a substitute.

Mr. President, I ask unanimous consent that the vote on the motion to invoke cloture on the motion to proceed occur at 5 p.m., Monday—I will drag the vote; some people wanted it earlier, some wanted it later, and we will not close the vote until at least a quarter to 6—so that will be on Monday, April 26, at 5 p.m., and with the mandatory quorum being waived.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The PRESIDING OFFICER. The Republican leader.

Mr. MCCONNELL. Mr. President, I would only add, briefly, that Senator DODD and Senator SHELBY are on the floor. I would encourage them to continue to do what they have been doing, which is to try to reach an agreement.

The only place where I would disagree with my good friend, the majority leader, is I think it does make a difference which bill we turn to. Hopefully, the bill we turn to will not be a bill that came out of the committee on a party-line vote but, rather, a bill negotiated on a bipartisan basis by those who know the most about the subject: Senator DODD, Senator SHELBY, and the members of their committee.

It is still my hope we will be able to go forward on a bipartisan basis, and I look forward to hearing from Chairman DODD and Ranking Member SHELBY about the progress they make.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota has the floor.

The Senator from North Dakota is recognized.

NOMINATION OF BRIGADIER GENERAL MICHAEL J. WALSH

Mr. DORGAN. Mr. President, I am tempted to ask the minority leader, while he is on the floor, whether he might help us proceed to overcome the objections of Senator VITTER and achieve the promotion that was offered 6 months ago but since has been blocked for a distinguished soldier. I guess I will withhold on that and wait for another moment.

But let me indicate quickly—and I will be happy to respond to a question then—the Outfall Canals/Pump to the river, which my colleague is so significantly criticizing the Corps of Engineers for—let me read specifically:

> The Corps will conduct a supplementary risk reduction analysis as part of the detailed engineering feasibility study, including the NEPA compliance documentation, for options 2 and 2a, if Congress appropriates funds for the study.

Congress has actually voted on these funds through the Appropriations Committee and said: No, we would not do that.

So my colleague knows that holding up the promotion of a soldier is not going to achieve his ends. The Appropriations Committee has already voted.

I am happy to yield to the Senator from Virginia for a question.

Mr. WARNER. Mr. President, I appreciate that. I have a question. I appreciate the comments of the Senator from North Dakota, and I agree with his comments. I have to say—and I know some of my colleagues were here earlier.

Before I came to this body, I spent a career as a CEO of a business and a CEO of a State. While I have great respect for this body and the rules and traditions of this body, something seems a little strange when 15 months into a new administration, this President can't get his nominees up for a straight up-or-down vote—put the management team in place. If there is a challenge or a problem with the qualifications of the gentleman the President proposes to be the head of the Corps of Engineers, we ought to debate that and vote him down, but he should not be held in this kind of gray secret hold or this area of abeyance. A number of my colleagues have spoken about this already. All of the freshman and sophomore Democratic Members—and I am sure we would welcome our Republican colleagues to do the same—are saying this process of putting people on hold, particularly seeking holds that have no relationship to their qualifications for the job, is wrong.

I don't know how to answer this when people around Virginia ask me: Why can't you get stuff done, and why can't these things be moved forward?

So a number of us—we may be new to the body, but just because of the very action that is being debated right now—are going to continue to press this issue. I commend the Senator from North Dakota.

Again, is the Senator from North Dakota aware of any substantive reasons this man who served our country for so long in our military should not be confirmed as the head of the Army Corps of Engineers?

Mr. DORGAN. Mr. President, I would say to the Senator from Virginia, there are no reasons with respect to this person's military service. I have not heard any reasons from the Senator from Louisiana. He is not holding up his promotion because he thinks the man is unfit or didn't earn the promotion; he is holding up the promotion because he says he is demanding other things from the Corps of Engineers.

Despite my irritation, let me say I don't dislike my colleague from Louisiana. I intensely dislike what he is doing, and I expect most informed soldiers in this country should dislike what he is doing because I believe it puts a soldier in the position of being a pawn as between the demands of a U.S. Senator and some agency.

I will go through at some point—the Senator, I know, is leaving this afternoon, and that is why I, as a matter of courtesy, told him when I would come to the floor. But at some point later when others aren't waiting, I will go through and describe the issues, responses to the issues, because the rest of the story is much more compelling than the half story given to us by the Senator from Louisiana.

The Ouachita River levees, the authorization for that Ouachita River and tributaries projects specifies that levee work is a nonfederal responsibility. Congress has not enacted a general provisional law that would supplant this nonfederal responsibility and allow the corps to correct levee damages not associated with flood events.

As much as a person—as someone here—doesn't like that answer, that is the answer. Again, my colleague is saying—if you strip away all the bark, my colleague is saying: I demand we spend more money on something that will give us less flood control. Well, look, the Senate Appropriations Committee has been confronted with that, and the Senate Appropriations Committee said: No way, we are not going to do it.

One final point, and then I will come back at some later point and the Senator from Louisiana will respond and I will respond to him and, hopefully, someday he will decide there are other ways for him to achieve the means to an end rather than use the promotion of this dedicated soldier as a pawn in this effort he is making.

This Congress has appropriated $14 billion to help the people of New Orleans and Louisiana. How do I know that? Because I chair the appropriations subcommittee that funds these things. I chair that subcommittee. I have been willing and anxious to help the people of Louisiana and New Orleans. I have been willing to do that because I saw what they were hit with: an unbelievable tragedy. I saw it. But I think it is pretty Byzantine to come to the floor and hear the relentless criticism of the Corps of Engineers that has stood with the people of Louisiana and New Orleans, and even today is helping rebuild with that $14 billion. I think there is a time when you wear out the welcome of certainly this Senator and others who have been so quick and so anxious to help, and you wear out the welcome of agencies such as the Corps of Engineers when you suggest somehow that they are a bunch of slothful bureaucrats who can't do anything right.

I have seen people wear out their welcome, and I tell my colleagues this: This exercise in using this soldier as a pawn in this little game, trying to misread the law and the authorities of the Corps of Engineers to demand that they do what they can't do in order to satisfy one Senator, it is the wrong way to do business in this Senate.

I have not convinced my colleague to release his hold and allow, after 6 months, this soldier's career to move forward. I know this is just one. There are 100 of them on the calendar. This is one, but it is one that is unusual. It is one that is unusual because one soldier's career that has been recommended for promotion by Republicans and Democrats alike is being held up by only one person. I have not heard one other person come to this Chamber and say: I think it is a good idea to use a soldier's promotion as a pawn to try to get what I want. There is not one other person who has done that, and I don't think there is another Senator who would do it. If there is, let's hear from them.

I will come back later. I know my colleague wishes to speak. Had he wanted me to yield, I certainly would have yielded, even though he would not yield to me. There are certain things we shouldn't do around here. Again, I don't dislike him, but I certainly dislike what he is doing because I think it is so fundamentally wrong and undermines the kinds of circumstances in which we have always evaluated the merit of promotions for soldiers who have served this country.

I yield the floor.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. VITTER. Mr. President, I am disappointed. I am disappointed. I am disappointed my distinguished colleague is continuing to simply blindly, in my opinion, be a fierce defender of a bureaucracy which is truly broken. Not a pawn in anything, a member of the leadership, one of the top nine officers of the leadership of this bureaucracy.

For my part, I will continue to fight to change, to fundamentally change that bureaucracy and, for starters, to have them follow the law, to have them follow their mandates, their authorizations in the WRDA bill and the other legislation I have outlined.

I have outlined the authorization clearly to the corps. I will outline it again. I have outlined these significant studies that are overdue, have never been produced, not because of the fault of anyone else, not because of the State of Louisiana. I will meet with them next week. I will continue to work on that. I invite the Senator to work on that sort of fundamental change, not just fiercely defending this, in my opinion, truly broken bureaucracy.

I will also note, as the majority leader noted, one Senator cannot kill this nomination. One Senator cannot stop this promotion. The Senate can move on it, so I invite the Senate and the majority leader to do that. It is completely within the majority leader's—his party's power to move on that and to proceed with this nomination, and certainly one Senator cannot stop that. But this one Senator will continue to fight to hold the corps' feet to the fire to make them live by their mandates, to move forward on these critical protection issues for Louisiana.

Thank you, Mr. President.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Let me just quickly say I intend to work with everybody in this Chamber who comes here to work in good faith to solve problems. But in my judgment, it is an unbelievable mistake to use the promotion of soldiers as a pawn in these circumstances.

I would say that as chairman of the subcommittee that funds all of these projects and all of these issues, I have been pleased to send all of that money—$14 billion—down to Louisiana. But as I said, my friend is fast wearing out his welcome. I think my friend might want to learn the words ''thank you,'' thank you to this Chamber, thanks to the rest of the American people who said to some people who were hit with an unbelievable tragedy: You are not alone. You are not alone. This country cares about you and is going to invest in your future. But I also think thank you to the Corps of Engineers. It is quite clear they have probably made some mistakes in all of our States. It is also clear that it would be a pretty difficult circumstance for a State or for people in any State to fight these battles without the experience and the knowledge and the capability of the Corps of Engineers.

I just think from time to time constructive criticism is in order. I think also from time to time a thank-you is in order. I also think in every case—in each and every case, the truth is in order. I will go through and in every single circumstance describe where the Senator from Louisiana has said the Corps of Engineers has the authority and has the funding, and I will show him that he is dead wrong, and I think he knows it.

But if this impasse continues, my colleague, Senator REID, the majority leader, does have the capability to take 2 days of the Senate's time to file a cloture motion, and my expectation would be that the vote would be 99 to 1 because I don't know of one other Member of the Senate who wants to hold up the promotion of soldiers in order to meet demands that a specific Federal agency cannot possibly meet.

I yield the floor.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. VITTER. Mr. President, just to close, I have said thank you many times, certainly to the American people, to these bodies in Washington representing the American people. The Senator is certainly right about that generosity and about a lot of the work of the corps.

I do disagree with the Senator in sort of lightly tripping over as a minor mistake design flaws that caused 80 percent of the catastrophic flooding of the city of New Orleans. I wouldn't think that is a minor mistake to trip over. But I will continue to work with the corps to resolve these issues, and I will go through every one of those additional 11 items I outlined because we are waiting on that critical work and on those critical reports. That is not only authorized, but it is mandated in the 2007 WRDA bill and other bills, and we need that to move forward.

Thank you, Mr. President.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. DODD. Mr. President, I note the presence of my colleague and friend from Alabama, the former chairman and now ranking member of the Banking Committee on the Senate floor, and I will be very brief. We have heard the proposal by the majority leader, the objection by the minority leader, and the announcement that there will be a filing of a cloture motion which will mature, I think, on Monday around 5 o'clock or so when a vote will occur.

Let me briefly express, first of all, my thanks to RICHARD SHELBY, my colleague from Alabama. For many months—going back more than a year, actually—we have been working together now on this. Over the last 38 or 39 months that I have been privileged to be chairman of the committee, we have sat next to each other. There have been some 42 proposals that have come out of the Banking Committee over the last 38 months, and I think 37 of them are now the law of the land.

There have been a wide range of issues, including things such as flood control, but also dealing with port securities, with risk insurance, with housing issues, with credit cards—all sorts of issues that our Banking Committee has wrestled with in the midst of the worst economic crisis since the Great Depression.

So before another word is said, before another amendment is filed or another motion made, let me say thank you to RICHARD SHELBY and my other members of the committee for their cooperation and the work we have done together on that committee. Very few votes that have occurred have been negative votes. We had a few of them that happened; that is understandable from time to time. But, by and large, we have worked together.

I want our colleagues to know, but also I think most of us want the American public to know, that despite political differences, the fact that we come from different parts of the country doesn't separate our common determination to see to it that we put ourselves on a much more solid footing than, obviously, we were at the time this crisis emerged. We want to never again see our Nation placed in economic peril as it was over the last several years, with as many jobs and homes lost and retirements evaporating, health care disappearing because of job loss. We have been dealing with all of the problems: small businesses collapsing, credit shutting down, capital not available for new starts and new ideas.

So we have put together a bill. Granted, it was not a bipartisan vote in committee, but as I am sure my colleague will recognize, much of what is in this bill today is different than the one I offered in November. I am not going to suggest that my friend from Alabama and others loved every dotted I and crossed t, but I believe he will acknowledge that there is a lot of cooperation represented in this bill, trying to come to some common territory so we can say to the American public: Never again will you be asked to spend a nickel of your money to bail out a financial institution. The presumption is failure and bankruptcy. We want to wind you down in a way that doesn't jeopardize other solvent companies and the rest of our economy in the country. We want to make sure consumers get protected, when they have a place to go—when a product they buy fails, there is a place they can go. We recently saw an automobile company where the accelerator jammed and people were put at risk. There was a recall on that product because it placed people at risk. Nothing exists today that allows for a recall of a financial product that puts you at risk. Our bill tries to do that. We try to complete an early-warning system so we can pick up economic problems before they metastasize into major issues. There are other pieces of it as well.

We are working to come to a common understanding of how best to achieve those goals and results. My hope is, because of the magnitude of the bill, we

can get to a debate and discussion. My experience over 30 years in this Chamber is that we never get to a resolution of issues until we have to. As long as there are sort of discussion groups going on in various rooms of the Capitol and meetings that we have—that is all helpful and can help us understand issues better, but the only way we get to a resolution of conflicting ideas, in the final analysis, is to be on the floor of this Chamber, where Members bring their ideas and we work on them together. We try to accept the good ones or modify them to make them fit into the structure. The bad ideas we try to reject when we can. But you have to be here.

Senator SHELBY and I, as hard as we work, we know we don't represent 98 other people in this Chamber. Other Members who are not members of our committee or who are members of our committee certainly have every right to be heard on this bill and to express their ideas as to how we can do a better job of achieving what we are trying to achieve. But we need to get there. If we don't even have the chance to start this process, you can't ask the two of us to resolve it for everybody. It is too much. We can try to come close and we can try to reflect the views of our respective caucuses and the American people, but don't expect us to sit there and write a complete bill to deal with an entire meltdown of the financial sector of our Nation. We can help get there. We have good ideas on how to achieve it. But we need this body to function. It cannot function as long as we are debating whether we can even get to the bill.

We have spent more than a year on this, and over a month ago we finished our work in the committee. It was voted out of committee. It wasn't a bipartisan vote, but we moved forward. Now we have a chance for this body to act on the product that came out of committee, which will be before us. Where we can get agreement and some changes, we will have a managers' amendment or a substitute or whatever procedural way necessary to try to accommodate those, reflecting the ideas of our colleagues. Others can bring their ideas to the debate. We need to have that. That cannot occur until we are actually here doing it.

I urge my colleagues, principally, I say, on the minority side but not exclusively—I think there are those on the majority side as well—everybody can play hold-up and say: If I don't get my way and if you don't do what I want, then I will object to getting to the bill. If that is the case, who wins on this matter? Certainly not the American people, who expect a little more out of this Chamber than whether each 100 of us insists upon our own agenda. It doesn't work that way, unfortunately. This is not an executive body. We are coequals here, even those in the leadership. We have a right to be heard.

My colleague from Arkansas, chairman of the Agriculture Committee—they marked up a bill dealing with derivatives and other matters, as they should. There is jurisdiction of that matter in their committee. We did the same. We have some jurisdiction over the subject matter. We need to harmonize the rulemaking on that subject matter.

I hope that on Monday afternoon, Senator SHELBY and I will continue working with each other, as will our staffs today, tomorrow, and over the weekend, to try to come to some understanding on some of these matters. I am not going to tell you to count on the two of us to solve all of our problems. We cannot.

I ask everybody, let's get to the debate. The American people cannot tolerate us doing nothing, waiting around to see if another crisis comes and whether we can respond to it. That is unacceptable.

About 5 on Monday, we need to have the votes to go forward. The two of us will sit in our respective chairs and present our ideas and talk and discuss how these ideas can emerge, and we will invite our colleagues to come to the floor to debate, discuss, and offer their ideas, and we will try to make this an even better bill. We think we have a good one, but we also know that anybody who suggests to you that they have written the perfect piece of legislation, be wary of them. I have never seen a perfect bill in 30 years—maybe a Mother's Day resolution or something, but aside from that, don't count on perfection to be offered here. It is anything but perfect. I hope we get to that moment.

We have had our discussions over the last week, and I will continue talking about the substance of our bill. We cannot turn into a petulant organization here that screams at each other. We need to get about the business the American people sent us here to achieve. With the relationship I have had with my friend from Alabama, I remain optimistic we will get the job done.

Legislative processes are not the most beautiful things to watch. It is what our Founders designed, what those who have come before us have been able to use to achieve some of the great successes of our Nation on many different matters.

We are now confronted with another great challenge as to whether we can step up and resolve the kinds of issues that would avoid the kind of catastrophe we almost witnessed in our Nation. That is our job. We are chosen by the citizens in our States to represent not only their interests but our fellow countrymen's interests as well.

I look forward to the vote on Monday. I hope we may not have to have it, that we can proceed to the bill and let Senator SHELBY and I and the committee members and others do the work and shape a good bill.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SHELBY. Mr. President, first, I thank Senator DODD for his leadership on the Banking Committee. I worked with him, as he said, day-in and day-out, and this is the fourth year of his chairmanship. We have achieved a lot together in a bipartisan way.

Both sides of the aisle are working together for a common goal. We share a lot of these goals. What are some of the goals?

Ending bailouts. Senator DODD and I both believe that nothing should be too big to fail—financial institutions and, I believe, manufacturing and anything else. Nothing should be too big to fail. We are working toward that end.

Protecting consumers. We are very interested in a consumer agency. We want to balance that, while protecting the deposit insurance fund and so forth.

Regulating derivatives. Let's be honest, they played a big role—a lot of them in the closet, unknown, and so forth—in our financial debacle. Derivatives are used every day legitimately by so many of our businesses, not only in America but all over the world. So we need to regulate derivatives while protecting jobs and our economic growth. It is a common desire. Details matter here. The Presiding Officer understands that. Senator DODD understands it very well.

As we are moving down the road in the process, we are continuing to negotiate and to do it in good faith, trying to reach a common goal. Who knows what will happen between now and Monday or next Tuesday or Wednesday or Thursday. I hope it is a bipartisan bill and that we can gather a lot of people on both sides of the aisle to support it. I think that is one of our goals.

What is the main goal? To do it right. Don't just do it, but do it right. Will it be perfect? Nothing is perfect, as Senator DODD talks about. But if we work in good faith, as we are trying to while the process is going forward, I think we can make some real progress toward the common goal—to have a strong financial system that is well regulated, to have derivatives that are brought out of the closet to work, and to have a consumer agency that will work for all of us. There are many other things, but that is my goal, and I share that with Senator DODD.

I yield the floor.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

(The remarks of Mr. UDALL of Colorado pertaining to the introduction of S. 3247 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mr. UDALL of Colorado. Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. FRANKEN). The Senator from New Mexico is recognized.

Mr. BINGAMAN. I thank the Chair.

(The remarks of Mr. BINGAMAN pertaining to the introduction of S. 3248 are printed in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

EARTH DAY

Mr. BINGAMAN. Mr. President, I wish to speak for a moment about

Earth Day. This is the 40th anniversary of Earth Day—the 40th Earth Day, in fact, the 22nd of April. I am speaking now because of my great admiration for the work of Senator Gaylord Nelson in establishing this Earth Day. I was reminded of it in two respects in the last week. One was getting to visit with his widow, Carrie Lee Nelson, who is a great personage herself, who made a great contribution to his career in public service and continues today to advocate for the same issues he advocated for, particularly as they relate to the environment.

Also earlier this year, Don Ritchie, our Senate Historian who speaks to us on Tuesdays at the Democratic lunch each week when we get together, gave what I thought was a fitting tribute to Gaylord Nelson that I wanted to share with people. I asked permission to do that. Don Ritchie agreed that was something that was acceptable. I would like to read through this and take 2 or 3 minutes.

As the Senate Historian, he recounted the facts as follows:

This past weekend, the Mini Page, a syndicated children's supplement that appears in 500 newspapers across the country, paid special tribute to a former U.S. Senator, Gaylord Nelson, for launching the first Earth Day on April 22, 1970. Five years after his death, Senator Nelson remains an icon of the environmental movement.

Senator Nelson used to say he came to environmentalism by osmosis, having grown up in Clear Lake, WI. He promoted conservation as Governor of Wisconsin and, after he was elected to the Senate in 1962, he used his maiden speech to call for a comprehensive nationwide program to save the natural resources of America. He went on to compile an impressive list of legislative accomplishments, which included preserving the Appalachian Trail, banning DDT, and promoting clean air and clean water. But it was Earth Day that gave him international prominence and served as his lasting legacy.

Senator Nelson worried that the United States lacked a unity of purpose to respond to the increasing threats against the environment. The problem, in his words, was how to get a nation to wake up and pay attention to the most important challenge the human species faces on the planet. Then a number of incidents converged to help him frame a solution. In 1969, a major oilspill off the coast of Santa Barbara covered miles of beaches with tar. Senator Nelson toured the area in August and was outraged by the damage the oilspill had caused, but was also impressed with the many people who rallied to clean up the mess. Flying back from California, the Senator read a magazine article about the anti-Vietnam War teach-ins that were taking place on college campuses. This inspired him to apply the same model to the environment.

In September 1969, the Senator charged his staff with figuring out how to sponsor environmental teach-ins on college campuses nationwide, to be held on the same day the following spring. Rather than organize this effort from the top down, they believed that Earth Day would work better as a grassroots movement. They raised funds to set up an office staffed by college students, with a law student, Denis Hayes, serving as the national coordinate. They identified the week of April 19 to 25 as the ideal time for college schedules and the possibility of good spring weather. Calculating that more students were on campus on Wednesday made Wednesday, April 22, the first Earth Day. Critics of the movement pointed out that April 22 happened to be Vladimir Lenin's birthday, but Senator Nelson rebutted that it was also the birthday of the first environmentalist, Saint Francis of Assisi.

An astonishing success, the first Earth Day in 1970 was celebrated by some 20 million Americans on 2,000 college campuses, at 10,000 primary and secondary schools, and in hundreds of communities. Forty years later, its commemoration this week is expected to attract 500 million people in 175 countries.

I will at some later point talk about the environmental legacy of one of our own Senators from New Mexico, Senator Clinton Anderson, who was one of the prime sponsors and promoters of the Wilderness Act and worked with Gaylord Nelson on many of these same environmental issues and, of course, with President Kennedy, Stewart Udall, and with President Johnson.

There are many people who deserve great credit for the legacy in this country and the focus on environmental issues, and Earth Day is an appropriate time to acknowledge their contributions.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, I commend the Senator from New Mexico for drawing our attention to Earth Day. It has certainly become a national, if not global, observance that calls to mind the relationship we have with this Earth that we live on and our responsibilities. We are now considering legislation involving carbon and the impact of carbon on the environment and on this planet. There are some differences of opinions on the floor of the Senate about whether this is a challenge and, if it is, how to address it.

Early next week, three of our colleagues are going to step forward with a proposal. Senator JOHN KERRY has spearheaded an effort, working with Senator BARBARA BOXER and Senator BINGAMAN, to come forward with an idea of clean energy. He will be joined by Senator JOSEPH LIEBERMAN and Senator LINDSEY GRAHAM. It is a bipartisan effort.

What they are seeking to do in this bill is certainly consistent with the goals of Earth Day and our national goals: First, to reduce our dependence on foreign oil, to encourage domestic energy sources that are renewable and sustainable so we can build on our future; second, to create jobs, which is our highest priority in this Congress with the recession we face. We understand the reality that countries such as China see a great potential for building solar panels and wind turbines and a variety of different forms of technology to promote energy efficiency and to promote the kind of clean energy approach that we should have as part of our future. Third, of course, is that we want to do something about pollution—carbon emissions, the impact they have on our lungs and on our atmosphere.

I think this is a noble agenda. It is an ambitious agenda because it engages the entire American economy. We want to be sure we do the right thing, the responsible thing, when it comes to clean energy and our future but not at the cost of economic growth and development. I happen to believe a case can be made that absent our effort, we are going to fall behind in the development of industries that have great potential.

There was a time that the two words, ''Silicon Valley,'' sent a message not only to America but to the world that we were leading in the information technology development arena. I cannot even guess at the number of jobs, businesses, and wealth that was created by that information technology leadership in the United States. Now we need to seize that leadership again.

It is frustrating, if not infuriating, to think that 50 years ago, Bell Labs in the United States developed solar panels. Now, of the 10 largest solar panel producers in the world, not one is in the United States. That has to change. It is something of a cliche, but I say it in my speeches and it resonates with people, that I would like to go into more stores in America and find ''Made in America'' stamped on those products.

When it comes to this type of technology—solar panels, wind turbines—there is no reason we can't build these in the United States so that we are achieving many goals at once: a clean energy alternative, reducing our dependence on foreign oil, creating good-paying jobs in industries with a future, and in the process doing the right thing for Mother Earth. Earth Day is a time to reflect on that.

I have often spent Earth Day back in Illinois, downstate with farmers, and I can't think of any class of people in America closer to Mother Nature every single day of their lives. Most of them are not all that comfortable with these so-called environmentalists. They think they are too theoretical and not grounded in the reality that farmers face in their lives. But I have tried to draw them together in conversation, and almost inevitably they come up with some common approaches.

Whether we are talking about soil and water conservation or reduction of the use of chemicals on the land, all of these things are consistent with both environmental goals and profitable farming. So I look at our stewards of the agricultural scene in America as part of our environmental community who can play a critical role in charting a course in making policies for the future.

Mr. President, I hope that soon we will be moving to financial regulatory reform. It is a Washington term known as Wall Street reform, or basically trying to clean up the mess that was created by this last recession. This is a bill that is controversial. It has been worked on by many committees in the Senate. Senator BLANCHE LINCOLN in the Agricultural Committee took on a

big part of it. Most people are surprised to think of Wall Street and the Ag Committee at the same time, but those of us from Chicago are not. We have a futures market which has been in place for almost a century, starting with the Chicago Board of Trade, and it deals in futures—derivatives, if you will—that are based on agricultural commodities and currency and interest rates and a certain index. That operation in Chicago is governed and regulated by the Commodity Futures Trading Commission. The jurisdiction of that, as it started with agricultural products, has been relegated to the Agriculture Committee.

Senator LINCOLN met this week and did an outstanding job of reporting a bill on that section of the bill related to derivatives and futures regulated by the Commodity Futures Trading Commission. She was successful in reporting the bill from her committee, with the support of Senator GRASSLEY of Iowa making it a bipartisan effort. Another Republican Senator expressed an interest in helping as well. So I give her high praise in this charged political atmosphere in which we work in this body. It says a lot for her that she can put together this type of bipartisan coalition.

At the same time, Senator DODD, in the Banking Committee, has been working on a bill as well, trying to bring the two together on the Senate floor and have a joint effort to deal with this issue.

Now, why are we doing this? Well, we are doing this for very obvious reasons. We know that leading into this recession, Wall Street and the big banks in America got away with murder. At the end of the day, the taxpayers of this country were called on to rescue these financial institutions from their own perfidy.

When we look at the things they did in the name of profit, it turned out to be senseless greed. At the end of the day, many people suffered. As a result of this recession, $17 trillion was extracted from the American economy—$17 trillion in losses. Mr. President, $17 trillion is more than the annual gross national product of the United States. So if we took the sum total value of all the goods and services produced in our country in 1 year, we lost that much value in this recession. It was the hardest hit the American economy has taken since the Great Depression in 1929.

Of course, a lot of it had to do with bad decisions. Some individual families and businesses made bad decisions. They borrowed money when they shouldn't have. They got in too deeply, bought homes that were too expensive. They might have been lured into it, but they made bad decisions. The government made some bad decisions. We thought, as a general principle, encouraging home ownership was great for our country; that the more people who own a home, the more likely they will make that home a good investment for themselves, and the more likely they will be engaged in their neighborhood and their churches and in their communities, and the stronger we will be as a nation. That was the starting point. So we opened up opportunities for home ownership, reaching down to levels that had not been tried before, and, unfortunately, that went too far.

The private sector was to blame. When we look at so many people who were lured into mortgages and borrowing far beyond their means, we see there was also a lot of deception going on. People were told they could get a mortgage and make an easy monthly payment and weren't told their mortgage would explode right in front of them, as the subprime mortgage, in a matter of months or years, would have a monthly payment far beyond their means. They weren't told there was a provision in that mortgage which had a prepayment penalty that stopped them from refinancing, and that they were stuck with high interest rates from which they couldn't escape. They weren't told that just making an oral representation about their income was not nearly enough; that they needed to produce documentation about their real net worth.

These so-called no-doc closings, which became rampant in some areas, led to terrible decisions, encouraged by greedy speculators in the financial industries. So the net result was that the bottom fell out of the real estate market and $17 trillion in value was lost in the American economy. Most of us felt it in our 401(k)s, in our savings accounts, and in our retirement plans. We saw it with businesses that lost their leases and lost their businesses and had to lay off their employees.

The President was faced with 800,000 unemployed Americans in his first month in office. That is an enormous number of people. The total today is about 8 million actively unemployed, with 6 million long-term unemployed. It is huge, and it affects every single State. In my State, there is over 11 percent unemployment. In Rockford, IL, it is close to 20, and Danville about the same. I have visited those communities, and I can see the pain and the sacrifices that are being made by people who have lost their jobs.

So the President came in and asked us to pass a stimulus bill, which we did. It was some $787 billion that was injected into the economy in an effort to get it moving again, providing tax breaks for 95 percent of working families and middle-income families across America. It was a safety net for those who had lost their jobs, not only in unemployment benefits but also COBRA or health insurance benefits, and finally an investment in projects such as highway construction, which would create good-paying American jobs right now and produce something that would have value for our economic growth in the years to come.

At the same time, though, as we go through this painful process of coming out of this recession, we have to make changes in Wall Street and the financial institutions to guarantee that we would not face this again. That means taking an honest look at some of the practices that are taking place today, and that are legal today. We got into this thinking—and I was part of it; most of us were—that if we had an expanding financial sector in the United States, it would expand jobs and opportunities and business growth and global competition.

Unfortunately, it went overboard. Many financial institutions, which are now being called on the carpet, took the authority given them by the Federal Government to an extreme. That is what we are trying to change. We want to make sure there is some accountability on Wall Street and with the big banks, so that we understand what they are doing and that their investments don't end up being a gamble where people can lose their life savings or investments.

We want to make sure as well that we empower consumers in the United States. This bill that is going to come before us has the strongest consumer financial protection ever enacted into law in the United States. We are going to create an agency which is going to protect and empower consumers—protect them from the tricks and traps and shadowy agreements and fine print stuck in mortgages and credit card statements, in student loans, in retirement plans, and all of the things that people engage in daily in their lives where one sentence stuck in a legal document can end up being someone's downfall.

We want to protect consumers from that and empower consumers to make the right decisions, so that there will be clarity in these legal documents that can bring a person's financial empire to ruin. That kind of clarity and plain English is going to be guaranteed by a Federal group that is going to keep an eye on the financial industries.

Some of these large banks are fighting us. They don't want to see this happen. They do not believe there should be this kind of consumer financial protection. But we are going to fight to make that happen so consumers across America have a fighting chance when they enter into agreements, so that they will have a legal document they can understand and one that they can work with, and then they will have an agency to back them up.

Currently, we have only had one Republican Senator vote for this kind of reform—Senator GRASSLEY of Iowa voted for it in the Agriculture Committee version that came out of Senator LINCOLN's committee. But on the Banking Committee, not a single Republican would vote for it. I hope they will have a change of heart.

I understand there are negotiations underway, but I hope the negotiations don't water down the basic agreement in this bill. We need a strong bill. We need a bill that meets the test of what

we have been through as a nation. After all of the suffering that has taken place—the businesses lost, the savings lost, the jobs lost—for goodness' sake, let's not come up with some halfhearted effort. Let's stand up to the Wall Street lobbyists who are going to try to water down this bill and tell them no. We are going to call for a vote on a bill that has some teeth in it, something worth voting for, something that will guarantee that we will never go through this kind of recession ever again in our economy.

I think we owe that to the American people, and I hope that next week, come Monday afternoon at 5 o'clock, when this Senate convenes for a vote, I hope we have a strong bipartisan vote to move forward on this whole idea of Wall Street reform. I believe that is in the best interests of our country. I commend Senator DODD and Senator LINCOLN. I urge them to come together, bring their two bills together, and to come up with an agreement that can lead us into this kind of happy day where we have this kind of legislation.

Mr. President, I thank you for allowing me to speak in morning business, and if there is no one seeking recognition, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REED. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RHODE ISLAND FLOODING

Mr. REED. Mr. President, last month, my State was hit by the worst nonhurricane floods in the history of the State, at least in the last 200 years.

Our Governor has preliminarily assessed the damage in the hundreds of millions of dollars, which is a significant figure for the smallest State in the Union. This disaster came at the worst moment for my state. Rhode Island is struggling with an economic collapse that has left it with a 12.7-percent unemployment rate and decimated State and local financial resources.

Indeed, many of the homeowners and businesses who were hit hardest by the floods were among those already struggling to make ends meet. I toured the State, along with my colleague, Sheldon Whitehouse, and met with constituents from Cumberland to Westerly, from the north to the south, as they worked to clean their homes and businesses. We could see the turmoil, as well as their physical and emotional strain and stress. They are tired. They are frustrated, and they are asking for our help. I admire the spirit of people who are willing to pitch in and help their neighbors, and that was evident throughout the crisis. This significant blow came on top of the economic blows we have already suffered. A flood like this is difficult in good times and it is truly trying in bad times, as we have seen in Rhode Island.

I wish to commend FEMA and all the professionals in emergency management who have come to Rhode Island for their help in the recovery. They are doing a marvelous job. The speed of the response, including from Secretary Napolitano, has been tremendous. She was up there on Good Friday looking at the flood damage. The FEMA teams were on the ground. Deputy FEMA Administrator Rich Serino was there. He visited the damage with me. This is emblematic of the commitment of the FEMA task force. It is not only FEMA. It is also the Small Business Administration. The regional EPA director was there, the regional small business administrator was there. We had representatives from the Army Corps of Engineers and the district engineer.

The most emblematic story was told to me in Washington by a Rhode Islander who was visiting. She was a visiting nurse. She said her sister was at home on Easter. She had some flood damage. The doorbell rang, and it was FEMA. They said: We work 7 days a week. Here is the estimate of the damages, and we will be able to help you in this way.

Even with this dramatic and effective response, the damage was widespread. It covered every corner of the State. This was the first time we have seen, in my lifetime and going back a long time, not only surface water coming over the banks of rivers—there are some areas that perennially flood, similar to anywhere in the country—this was groundwater. We had been so saturated with rain for weeks and weeks. When the final deluge came, there was no place to hold the water. It came up through cellars, through sump pumps, through everything. There were very few parts of the State, very few homes unaffected by at least minor basement flooding; in some cases, very major water damage.

The story of the Pawtuxet River is an example of what transpired. Let me also say that in my course of traveling around, I was reeducated in the development of northern industrial communities. I am looking at the Senator from New Hampshire. The development started with a mill on a stream for water power. Then they built mill cottages around that. Those mills are still there. Those cottages are generally occupied today by relatively low- or moderate-income people. The mill owner, I recall now, put his house on the top of the hill, not around the mill. So that is Rhode Island. That is Massachusetts. That is Connecticut. That is New Hampshire. When these waters flood, you perennially get some communities that see damage from surface water. This is the first time we saw this incredible groundwater as well.

We are a community of rivers and mill villages. The Blackstone River is where the American Industrial Revolution began, the Pawtuxet River in Cranston, the Pawcatuck River, the Pocasset River in Johnston and Cranston—they all were above flood stage. The Pawtuxet River, in my hometown of Cranston, on March 15, crested at a record high of 15 feet. Remarkable. Neighborhoods along the banks flooded as homes and businesses were evacuated. I toured those neighborhoods later in the week and saw the damage. Again, along with Senator WHITEHOUSE, I worked to support a major disaster declaration which was promptly granted. The people of Rhode Island appreciate President Obama very quickly supporting a major disaster declaration, not only for individuals but also for public entities, the cities and towns. This is something he did with great speed and great efficiency. I thank him personally.

Actually, the initial flooding was around March 12 or 13. Then we got the second deluge. It was a two-stage event. As the rains were falling, one woman profiled on local television looked in exhaustion at the new furnace she just installed. In anticipation of the second flood, there was an attempt to move vehicles, furnaces, et cetera around, to shore up or raise equipment on factory floors. But the rapidity and extent of the rain was such that the flood was there before many people could react.

Let me try and give a sense of the damage. This horizontal axis runs south-north under the overpass. This is Route 95, the principal interstate running along the east coast. It was shut down for two days because of flooding. The road was completely inundated with water, completely covered. Then, in the next picture, this is the city of Warwick's wastewater plant, totally engulfed in water. In addition to that, the city of Warwick is also home to our airport. So for 2 days, when you got off a plane, you saw a sign that asked you to respectfully use restrooms someplace else or the Porta-John because the airport could not use their toilets. The whole city asked their citizens to suspend flushing for 2 days. So this impact is something we have never witnessed before. The next photograph is the Warwick Mall, one of the major shopping centers in the State of Rhode Island. It is totally engulfed in water and the inside is flooded. These are stores and retail establishments. They are still trying to reopen it. This facility employs about 1,000 people. They are still out of work. When you a have 12.7-unemployment rate and 1,000 people can't work because they have been flooded, that is adding excruciating pain to something that is already difficult. I must commend the owner of the mall, Aram Garabedian. Aram is indefatigable. Nothing is going to defeat him. Immediately, he was in here cleaning up. It is on the road to recovery and return, but this has been a blow economically to the State. As I said, in Rhode Island, because of our small size and community, there are five or six principal malls. Essentially, 20 percent of our mall sector is out of business.

The next photograph is typical of the property damage. This is in my hometown of Cranston. Notice the sign: ''Give this land back to the river.''

The river decided for a moment to reclaim it. This is the result of the surface flooding and the subsurface water coming up. This looks like the entire inside of the home has been destroyed and removed. Here is a hot water heater, a toilet. Although the house is standing, what is inside is basically a shell. This is a homeowner who now has to rebuild their house, essentially, and replace water heaters, toilets. One of the issues we have is that in some of these areas, because of the subsurface flooding, they are not a flood zone. Unless they have recently borrowed money on a mortgage, there is probably little requirement for them to have flood insurance. Typically, in these communities, the houses have been occupied for 20, 30, 40 years by one family. They have either paid off the mortgage or they don't require flood insurance. So many people, frankly, don't have flood insurance. Then, of course, there is going to be wrangling with the insurance companies because, in some cases, where it was just subsurface water, that does not fit their definition of a flood. So depending on your policy, or if you have coverage, there are thousands of homes in Rhode Island that are significantly damaged. The owner has no resources to rebuild unless he gets some assistance. Again, FEMA has been very good for temporary assistance, but we have to look more long term.

Finally, this is Hopkinton, RI, which is part of our rural area in the west. This photo shows the scope of the flooding there. This structure is totally surrounded by water. I was in other parts of this area, in another community, Charlestown. There was a bridge that was closed. As you walked across the bridge on the other side, because of the water moving under the ground, it looked as if someone had dropped a 500-pound bomb. It was a huge crater. Now the town has to rebuild the bridge. Of course, they don't have the money to do so.

All this is indicative of the situation in Rhode Island. A further point. This photograph was taken a week after the flooding. Notice it is sunny. This is a week after the flooding. These owners couldn't even get to their building after a week. This could have been worse in this particular locale because farther upstream there is a dam, the Alton dam. It was overtopped and the waters were going over it. There was so much concern that it was in danger of collapsing that there was an emergency evacuation order for the town of Westerly, which is a sizable community to the south on the coast. They were afraid the dam would give and a major metropolitan area, in Rhode Island terms, would be engulfed with water. Luckily the dam held, and the damage was significant but restricted to flooding along the Pawcatuck.

Within the context of jobs, too, several of our facilities and factories were knocked out. Bradford Printing and Finishing has already let go of its employees. They were underwater. They are still trying to literally get back to work. It has been closed for cleanup. Again, workers are on the street, not because they don't have demand for their product. It is because they can't get to the machines where they are flooded. Another company in northern Rhode Island, along the Blackstone River, Hope Global, an extraordinary CEO Cheryl Merchant, they were flooded in 20005. I was there. I had to take a boat into their factory. This time, in anticipation, they literally lifted the equipment. This is a major producer of OEM for the auto industry, webbing and belts, seatbelts, et cetera. They pushed up all that heavy equipment. The water came in, but it didn't reach the equipment. They are back in production, but the preparations and the cleanup are about $1 million. It is hard for the manager of the plant to explain to the board of directors why they are going to spend $1 million every 5 years just to keep the equipment dry.

We have to do something in terms of mitigation. Even in the best times, FEMA would have been necessary. But we are in a very difficult situation. The State is, as we speak, trying to fill a $220 million shortfall in this year's budget. Again, this is a State where $220 million is a significant part of the budget. It is not a rounding error. They are already anticipating a $400 million shortfall next year in the 2011 budget. The bond rating has been lowered once in the last several weeks. It may be lowered again, if this economic distress and this flood damage can't be, in some way, mitigated and supported in terms of cleanup or reconstruction.

Frankly, my constituents know—and we all have seen similar scenes of flooding from the Midwest, from the Southwest, from the Central part of America—every time, at least in my recollection, this Senate has stood and provided support for those communities.

I have supported emergency expenditures for flooding in communities elsewhere in the country, except really up in Rhode Island because we have never had an experience before of this nature, of this size, of this scope. They, frankly, do not begrudge the aid because, as I sense and as my colleagues and constituents sense, someday we might be in that position where we are going to have to ask for it. Well, we are in that position right now. So for everyone who has been here—and it is a significant number—and asked on behalf of their constituents for help because of a devastating flood, I am joining those ranks. We will have an opportunity, I hope, in the appropriations process through the supplementals to provide additional assistance to the State of Rhode Island, for my constituents to deal with this situation, both the economic distress and the physical damage from this flooding.

So, Madam President, I again thank you for the opportunity to talk about what happened, and I will be back again because, as we have responded to the needs of other parts of the country, we ask that we be given the same treatment.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

Mrs. FEINSTEIN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mrs. SHAHEEN). Without objection, it is so ordered.

Mrs. FEINSTEIN. Madam President, I ask unanimous consent that I be permitted to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

REUTERS INVESTIGATION OF WELLPOINT

Mrs. FEINSTEIN. Madam President, earlier today my staff brought to my attention an article that had just come out on Reuters. I read it and felt an outrage and dismay and decided I was going to come to the floor and speak about it.

Today, an investigative story published by Reuters details how WellPoint, a medical insurance company—as a matter of fact, the Nation's largest health insurance company, with 33.7 million policyholders—used a special computer program to systematically identify women with breast cancer and target their health policies for termination—in other words, an effort to specifically target women with breast cancer and then drop their health insurance. I would like to ask every American to read this jaw-dropping story. Instead of providing the health care for which these seriously ill women have paid, WellPoint subjected these paying customers to investigations that ended with WellPoint's administrative bureaucrats canceling their insurance policies at their time of greatest need.

Under attack by both cancer and WellPoint, these women were left ailing, disabled, and broke. Let me give you a few examples.

Yenny Hsu, a woman from Los Angeles, was kicked off of her insurance policy after a breast cancer diagnosis because WellPoint said she failed to disclose that she had been exposed to hepatitis B as a child. Now, that has nothing to do with breast cancer, but it did not stop WellPoint from terminating her coverage.

In Texas, a woman named Robin Beaton was forced to delay lifesaving surgery because WellPoint decided to investigate whether she had failed to disclose a serious illness. The serious illness in question was a case of acne. WellPoint delayed her surgery for 5 months, causing the size of the cancerous mass in her breast to triple. By the time they finally dropped their investigation, she needed a radical double mastectomy.

Another loyal, paying WellPoint customer who faced this situation was Patricia Relling of Louisville, KY. Ms. Relling was an interior designer and art gallery owner who never missed a payment. But that did not stop WellPoint from canceling her insurance in the middle of her fight with breast cancer. WellPoint abandoned her at her weakest moment, forcing her to pay enormous medical bills on her own. This woman, who was once a highly successful business owner, is now subsisting on Social Security and food stamps.

Meanwhile, WellPoint made a profit of $128 million by stripping seriously ill Americans of their insurance coverage in this manner, according to the House Energy and Commerce Committee. This is likely a low estimate because WellPoint refuses to provide a total number for rescissions across the company's subsidiaries. WellPoint earned a $4.7 billion profit in 2009—a $4.7 billion profit in 1 year. Angela Braly, the CEO of WellPoint, received $13.1 million in total compensation in 2009. This was a 51-percent increase in her salary over the prior year.

WellPoint is not alone in doing this to people, but they are an egregious offender. According to the House Energy and Commerce Committee:

> WellPoint and two of the nation's other largest insurance companies—UnitedHealth Group Inc and Assurant Health, part of Assurant Inc—made at least $300 million by improperly rescinding more than 19,000 policyholders over one five-year period.

According to Health Care for America Now, these large companies—the big, for-profit American medical insurance companies—have seen their profits jump 428 percent from 2000 to 2007. All during this period, they have doubled premium costs. So they have made huge profits in 7 years, and they doubled premium costs.

Time and time again, our for-profit insurance corporations have demonstrated that their hunger for profit trumps any moral obligation to their customers. This latest story is just the latest example of the kind of outrageous behavior we have come to expect from certain medical health insurance companies.

The health insurance reform law passed by Congress and signed by President Obama will end the practice of unfair rescission and discrimination because of preexisting conditions. But we must clearly be vigilant in order to ensure that the law has teeth and is heavily enforced. We cannot turn our backs for 1 minute because left to their own devices, I truly believe these companies will look for ways to throw paying customers to the sharks for the sake of profit. These are strong words, and I am not known for these strong words. But the more I look into the large, for-profit medical insurance industry of the United States, the more I am embarrassed by it.

A situation unfolding in my own State now is further proof of this. On May 1—that is 9 days from now; it is 1 week from Saturday—more than 800,000 Californians who hold insurance policies issued by WellPoint's Anthem Blue Cross subsidiary will face rate hikes of up to 39 percent.

I have received deeply personal letters from literally hundreds, if not thousands, of Californians whose lives are going to be devastated by these rate increases. We have 12.7 percent unemployment. We have over 2.3 million people unemployed. We are very high in house foreclosures, people can't find jobs, and at the same time the insurance premiums are being jacked up. This is terrible because many of these people had a premium increase almost as large as the 39 percent that is going to happen on May 1, last year, and then they know they face it again the next year.

I cannot say that all of this is responsible for these premium increases, but in my State alone, 2 million people in the last 2 years have gone off of health insurance. That is 1 million people a year who find they can't afford health insurance. So they have gone off of it, more on Medicaid, and many have no coverage whatsoever. This is at a time when this same company is reaping billions of dollars of profit. So what do I conclude? There is no moral compass. There is no ethical conduct.

These are families with children. They are students or the elderly. One woman had been a client of Anthem for 30 years. She had never been sick, and she got sick. Cancer survivors, small business owners, they are about to be crushed.

WellPoint will tell us that these premium rate hikes cannot be avoided. They will tell us that others are to blame: hospital charges, prescription drug prices, the rising cost of medical care. They blame the government. They blame the economy. But the fact is, they are making money, and billions of dollars of money.

If there was any doubt about whether corporate greed has anything to do with WellPoint's plan to jack up rates on customers, I think today's story by Reuters answers the question definitively.

In order to prevent these kinds of unfair premium rate hikes on Americans, I have introduced a bill that would establish a health insurance rate authority. It would give the Secretary of Health the mandate to see that rates are reasonable. Two days ago, the HELP Committee held a hearing on this bill. The chairman of the committee, Senator HARKIN, made some very strong statements in favor of it, as did other Democrats. The Republicans who spoke, of course, opposed it because they are in a mode where they oppose virtually everything right now, but they opposed it.

So here is what my bill would do. It would give the Secretary of Health the authority to block premiums or other rate increases that are unreasonable. In many States, insurance commissioners, as the Presiding Officer knows, already have this authority. They would not be affected. Commissioners have the authority in some States—in some insurance markets they have it—and in others they do not. In about 20 States, including my own, California, companies are not required to receive approval for rate increases before they take effect. So my legislation would create a Federal fallback, a fail-safe, allowing the Secretary to conduct reviews of potentially unreasonable rates in States where the insurance commissioner does not already have the authority or the capability to do so. The Secretary would review potentially unreasonable premium increases and take corrective action. This could include blocking an increase or providing rebates to consumers.

Under this proposal, the Secretary would work with the National Association of Insurance Commissioners to implement this rate review process and identify States that have the authority and capability to review rates now. States doing this work obviously should continue. This legislation would not interrupt or effect them. However, consumers in States such as California and Illinois and others—about 20 some-odd States—would get protection from unfair rate hikes.

The proposal would create a rate authority, a seven-member advisory board to assist the Secretary. A wide range of interests would be represented: consumers, the insurance industry, medical practitioners, and other experts.

I think the proposal strikes the right balance. As the Presiding Officer knows, we have worked with the administration in drafting it. We worked with the Finance Committee. We worked with the Secretary of Health. We tried to get it into the Finance Committee's health reform bill. We were not able to do so. The President took this bill and put it in the reconciliation bill. Unfortunately, the Parliamentarian found that its policy implications overcame its budgetary savings, and therefore a point of order would rest against it. So it was dropped at that time. So we are trying again. It is necessary.

Nine days from now, 800,000 Californians will get up to a 39-percent increase in their premium rate. It is greed, pure and simple.

So the legislation I have introduced provides Federal protection for consumers who are currently at the mercy of these large, for-profit medical insurance companies whose top priority is their bottom line. The bottom line for us is we have a duty to protect the American people from this kind of greed and this kind of lack of any moral compass.

If these companies were having a hard time, I would say: Look, it can't be helped. But they are not. They have enjoyed something no other American business has, and that is an antitrust exemption. Only Major League Baseball has an antitrust exemption. So

they are able to go all over the country and merge and acquire insurance companies in order to control market share. Once they control market share, they then begin to boost rates. Therefore, over the past 7 years of doing this, they have developed a 428-percent increase in their bottom line, which is their profits.

If a CEO thinks it is OK to deprive women of their health coverage when they become seriously ill with breast cancer, we can't trust them to do the right thing, period. This ought to be convincing to every Member of this body, whether it is this side of the aisle or the other side of the aisle, that we need to move to see that there is a reasonable, prudent system where people don't have to endure when they have breast cancer and they go in, that they are going to lose their medical insurance. This Reuters story points it out chapter and verse today, and I have indicated several stories.

So, in my view, it is time for Congress to step in and fix this rate hike loophole in the health insurance reform law. We have to put patients before profits. We have to protect the American people from this kind of a lack of moral compass and candidly unchecked greed. I hate to say that, but that is the way I see it.

I will likely attempt to put this as an amendment to the regulatory reform bill. As I say, the matter has had a committee hearing, and in view of the fact that 800,000 people face these rate increases a week from Saturday, I think we need to take some action.

I would implore Anthem to understand and to not raise these rates. They have postponed this rate increase once before; they certainly can do it again.

I thank the Chair. I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. CORKER. Madam President, I rise today to address the financial regulation proposal that is before us right now. I wish to talk about some of the conversations that are taking place about our status. No. 1, I think everybody in this body knows that people on both sides of the aisle would like for us to come to an agreement that makes our country's financial system stronger, protects consumers, and tries to insure us against the kinds of things we have all witnessed over the last couple of years. I think on both sides of the aisle there is tremendous desire to see that happen.

There has also been some discussions, though, about the process leading up to this. I know the Senator from Nevada has talked a little bit about the fact, for instance, that they negotiated with Senator CORKER for 30 days. This bill is 1,400 pages long, and I think by all accounts most people felt as though we were almost completed—the analogy that is being used is, we were on the 5-yard line and the lights went out. Somehow or another, taking 30 days to try to discuss a 1,400-page bill and get it right has been discussed as taking a long time. I don't consider that a long time at all.

As a matter of fact, I think it is remarkable the kind of progress we have made when we actually sat down as two parties trying to reach a compromise on something that is as important to the American people. So I wish to say that a lot of us on this side of the aisle have dealt in good faith, have actually gone out on a limb to deal in good faith—as a matter of fact, have broken protocol, in some cases, to try to deal in good faith.

When statements are made that if you try to negotiate and you get to the 5-yard line but for some reason the White House and people on the other side of the aisle decide to go on because they are losing some Democrats—which, by the way, I would assume in a bipartisan negotiation you lose some Republicans, you lose some Democrats, because you have reached a middle-of-the-road piece of legislation. So to categorize that as making that much progress and then: Well, we are losing a few Democrats so we have to stop and go our own way—which has been publicly stated by my friends on the other side of the aisle as to what happened—to talk about that as if that is a problem on our side of the aisle creates a little bad faith, just to be candid. I mean, for the next person who comes along and tries to work something out with my friends on the other side of the aisle and this happens, I think it is going to discourage that from happening in the future. So I hope we will tone down those kinds of things.

Then they talked about the fact that we went through the committee with this bill. At the time it was only a 1,336-page bill. It has expanded since that time. But we voted this bill out of committee in 21 minutes with no amendments. This was not a real vote. The understanding we all had was that the makeup of the Banking Committee was such that it would be difficult to get to a bipartisan agreement there and that we might harden ourselves against each other by offering amendments. I filed 60 amendments myself, none of which were messaging amendments. They were all technical amendments, and others, to try to fix this bill. But for some reason, the rules changed and we weren't going to be able to do that in committee, and we didn't want to harden ourselves against each other, and we were going to fix it before it came to the Senate floor.

Now we file a motion to proceed to the bill without it being fixed before it comes to the floor. It just seems as though there is this little shell game where we keep moving the goalpost to such a point where, again, we are going to end up with a situation where a bill comes to the floor, but there has been no bipartisan consensus.

Now, I will say this: I do think Chairman DODD has tried to do some bipartisan things, and I know I personally have had an effect on this bill. I thank him for that. I thank Senator WARNER for the work we have been able to do together, and Senator REED and Senator GREGG and others. But the fact is, we haven't reached a bipartisan agreement. So I hope some of the statements that are being made about where we are and how we got here and the revisionist history that is being created to sort of make one side of the aisle look worse than the other side of the aisle will cease. It doesn't do any good.

The fact is, there are people on both sides of the aisle who want to see financial regulation take place. This whole notion that if you are against this bill as written, you are for Wall Street, and if you are for this bill as written, you are against Wall Street, is an unbelievably silly argument. The fact is, I think everybody in this country knows when major regulation takes place, the big guys always do best. They have the resources to deal with compliance and all of those kinds of things. As a matter of fact, I doubt there are many people on either side of the aisle who are hearing much from Wall Street right now. Who they are hearing from is their community bankers who are concerned about a consumer protection agency that has no bounds and has no veto.

All of a sudden, it is used potentially as a social justice mechanism in this country. They are concerned about that. They are probably hearing from manufacturers who actually make things and buy hedges or derivatives to make sure their material prices can be hedged again down the road so they don't lose money fulfilling a contract.

When we talk about that either you are for this bill and against Wall Street or vice versa, that is just a low-level argument. It has nothing to do with the facts. The fact, from where I sit, is we have a lot of people in this body who want a good bill. It seems to me the best way to get to a good bill is to at least get the template of the bill agreed to in advance, to get the bill agreed to as it relates to orderly liquidation.

I think we all want to make sure that if a large organization or any organization fails, it fails, but certainly with these highly complex bank holding companies, we want to see that happen. Make sure we deal with revenues in such a way that most of the trades go through a clearinghouse, so at the end of the day, people who are making money bad, make money good so we don't have an AIG-type situation again. Yet we have an appropriate end-user exclusion for people using these derivatives to actually make their businesses safer. We want to make sure we have appropriate consumer protection. We want to make sure that is done in balance; that a consumer protection agency doesn't undermine the safety and soundness piece; that those people are making sure that our banks and financial institutions are sound; that people who do business with them know they are going to be sound; and

that we don't have a consumer protection agency undermining that by trying to, again, use financial mechanisms as a way of creating social justice in this country.

Those are three big titles. It seems to me, if we can get agreement there, before the bill comes to the floor, then we can then do all kinds of amendments on the floor. I think there are a lot of good ideas that my friends on the other side have. I think there are a lot of good ideas that would come from this side of the aisle. It seems to me that the best way to have a great debate is to start with a template that is bipartisan and then let people change it in ways they see fit. We can vote on those. To me, that is the best way to go.

I hope that instead of the tremendous interference that is taking place at the White House—I have never seen such involvement in what appears to be the actual drafting of legislation, sending it straight to a committee, and it being voted out. I have never seen such involvement. I hope we can tone that down, that we can tone our rhetoric down as far as trying to blame the other side for how we ended up in this position, when there are a lot of people on both sides who have exercised good faith in trying to get here. It just pushes people apart when these realignment of history discussions take place, when that is not what has happened.

Let's give Chairman DODD and Ranking Member SHELBY some time to work through these issues. That is what needs to happen. They and their staffs need to finish working through these issues, with input from other Members, and then let's have a great debate. I know we have a weekend coming up and the floor will shut down in the next 24 hours or so. I hope the staffs and these two Members will continue to work through the weekend and try to get this bill right. I hope we will quit throwing accusations back and forth and that we will cool down the rhetoric, and I hope we have an opportunity to begin again with a bipartisan template that we can amend and then create some great legislation for this country.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

Mr. DORGAN. Madam President, are we in morning business?

The PRESIDING OFFICER. We are not. We are on the motion to proceed to S. 3217.

Mr. DORGAN. Madam President, I ask unanimous consent to speak as in morning business for as much time as I may need.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE START TREATY

Mr. DORGAN. Madam President, I have come to speak about the New START Treaty—Strategic Arms Reduction Treaty—with the Russians. I wish to talk about that in some detail.

A week ago, I and other colleagues were in Russia at a site near Moscow looking at a facility that we in the United States are funding to try to make this a safer world, to safeguard nuclear materials and nuclear warheads in the Soviet Union. I wish to talk a bit about this program as it relates to this new START Treaty.

Some of my colleagues have expressed concern and are determined that they are not necessarily supportive of the START arms reduction treaty unless other things are done. I wish to talk about that just a bit.

First, I will describe the unbelievable succession of something we have been doing called the Nunn-Lugar program, the Nunn-Lugar Cooperative Threat Reduction Program. We talk about what doesn't work and what fails, but we don't talk so much about what does work. I will do that for a moment.

I ask unanimous consent to show three things I have had in my desk drawer.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DORGAN. This is a wing strut from a backfire bomber, a Soviet backfire bomber. This is a bomber that would have carried nuclear weapons that would threaten this country as a potential adversary. This is from this airplane. As you can see, this airplane, this backfire bomber, doesn't exist anymore. We didn't shoot it down. I have the wing strut because we sawed it up as part of an arms control and reduction treaty reducing delivery vehicles. This bomber don't exist and carry nuclear weapons because the Nunn-Lugar program helped dismantle that bomber under agreements we have had with the Soviet Union and now with Russia.

This photo is of a typhoon-class ballistic missile submarine the Soviets had. It carried missile launch tubes. This is a missile tube from that submarine. You will see that these tubes don't exist in the submarine anymore. They are now scrap metal. This is copper wire that comes from that Soviet submarine that used to prowl the seas with nuclear weapons threatening our country. This ground-up copper wire from that submarine was not because we sank the submarine but because we have a program by which we reduced the delivery vehicles for nuclear weapons. We and the Soviets—now the Russians—have agreed to a systematic reduction of weapons and delivery vehicles.

This photo is of a missile silo in the Ukraine. This is an SS–18 missile silo. It was blown up as part of the Nunn-Lugar Cooperative Threat Reduction Program. This is what is left of the scrap metal.

I have a hinge here from this particular site in the Ukraine that housed a missile that had a nuclear warhead aimed at our country. Instead of a missile being on the ground in the Ukraine, there is now a field of sunflowers. A field of sunflowers is now planted where a missile that carried a nuclear warhead once existed.

This is unbelievable success, in my judgment, and something we ought to celebrate. With the help of the Nunn-Lugar program Ukraine, Kazakhstan, and Belarus are now nuclear weapons-free. Albania is chemical weapons-free; 7,500 deactivated nuclear warheads; 32 ballistic missile submarines gone; 1,419 long-range nuclear missiles gone; 906 nuclear air-to-service missiles gone; 155 nuclear bombers gone. We didn't shoot them down. We didn't destroy them in air-to-air combat or undersea warfare. We paid some money in a program called Nunn-Lugar with the Soviets and Russians to saw the wings off bombers and grind up the metal in submarines and take out missile silos in the Ukraine with missiles aimed at our country. Therefore, it is a safer world. The question is, How much safer and what more do we need to do?

I have previously read a portion of something into the CONGRESSIONAL RECORD. I will do it again ever so briefly.

On October 11, 2001—not many Americans know this—1 month after the 9/11 attack, George Tenet, Director of the CIA, informed the President that a CIA agent, code-named ''Dragonfire,'' had reported that al-Qaida terrorists possessed a 10-kiloton nuclear bomb, evidently stolen from the Russian arsenal. According to Dragonfire, the CIA agent, this nuclear weapon was now on American soil in New York City. That was 1 month after 9/11. The CIA had no independent confirmation of this report, but neither did it have any basis on which to dismiss it. Did Russia's arsenal include a large number of 10-kiloton weapons? Yes. Could the Russian Government account for all the nuclear weapons the Soviets built during the Cold War? No. Could al-Qaida have acquired one of those weapons? It could have. If a terrorist had acquired it, could they have detonated it? Perhaps. Smuggled it into an American city? Likely.

So in the hours that followed this report on October 11, 2001, 1 month after 9/11, Secretary of State Condoleezza Rice analyzed what strategists then called the ''problem from hell.'' Unlike the Cold War, when the United States and the Soviet Union knew that an attack against the other would elicit a retaliatory strike in greater measure and therefore perhaps destroy both countries, the al-Qaida terrorist organization had no return address and had no such fear of reprisal. Even if the President were prepared to negotiate, al-Qaida had no phone number to call.

This comes from a book that was published by Graham Allison, a former Clinton administration official. I first learned about the incident from a piece in Time magazine, on March 11, 2002. The book that describes the detail of it is pretty harrowing. It is a pretty frightening prospect. I will not read more of it. I have read a fair amount of it.

After some while, it was determined that this was not a credible intelligence piece of information. But for a month or so, there was great concern about the prospect of a terrorist group having stolen a nuclear weapon, smuggled it into an American city, and being able to detonate it. Then we were not talking about 9/11; we were talking about a catastrophe in which hundreds and hundreds of thousands of people would be killed and life on Earth would never be the same. When and if ever a nuclear weapon is detonated in the middle of a major city on this planet, life will change as we know it.

That brings me to this question of nuclear reduction treaties and the work that has gone on. We have about 25,000 nuclear warheads on this planet. I have just described the apoplectic seizure that existed in October of 2001 because one CIA agent suggested he had credible evidence or a rumor that one terrorist group had stolen one small 10-kiloton nuclear weapon. Think of the angst that caused for about a month, which most Americans don't know about. But that was one weapon. There are 25,000 on this Earth—25,000 nuclear weapons. Russia probably has around 15,000.

This is not classified, by the way. This is from a recent estimate by the Union of Concerned Scientists. Most people say it is accurate. The United States has 9,400. China has 240. France has 300. Britain has 200.

The loss of one to a terrorist group—the detonation of that nuclear warhead in a major city would change life as we know it on planet Earth. So the question is, What do we do about that? We struggle to try to accomplish two goals—one, to prevent the spread of nuclear weapons to others who don't now have it, to prevent terrorists from ever acquiring it, and working very hard to accomplish both even while we again try a systematic reduction of nuclear weapons from the 25,000 level and particularly among those that have the most nuclear weapons. We understand it is very difficult to reach these agreements, and when reached, it is very difficult to get them agreed to, get the support by what is necessary in the Senate.

About 95 percent of the nuclear weapons are owned by the United States of America and by Russia. There are a lot of groups in this world that are very interested in acquiring one nuclear weapon with which to terrorize this planet.

We are now operating under the Strategic Offensive Reductions Treaty, known as the Moscow Treaty. It requires the United States and Russia to have no more than 2,200 deployed nuclear weapons—there are many more than that; I am talking about deployed in the field—by 2012.

The Strategic Offensive Reduction Treaty we are now operating under does not restrict any nuclear delivery vehicles at all—airplanes, missiles, and so on—and it does not have any verification measures and it expires in 2012.

A few weeks ago in Prague, the Czech Republic, President Obama and Russian President Medvedev signed a new strategic arms control treaty. It is called START. I compliment the administration for successfully completing this treaty. I was part of a group in the Senate that continued to meet with and review with the negotiators the progress of their work. Their work was long and difficult, but they reached an agreement with the Russians.

It limits each side to 1,550 deployed strategic nuclear warheads, which is 30 percent lower than the Moscow Treaty under which we are now operating.

It limits each side to 800 deployed and nondeployed ICBM launchers, SLBM launchers, and heavy bombers—these are all delivery vehicles—equipped for nuclear armaments. That is one-half of what the START treaty allowed.

It sets a separate limit of 700 deployed ICBMs and SLBMs and deployed heavy bombers that are equipped for nuclear weapons.

The treaty, in addition, has a verification regime, which is very important. You can have a treaty with someone, but if you cannot verify and inspect, then you have a problem. This treaty with the Russians has onsite inspections and exhibitions, telemetry exchanges, data exchanges and notifications, and provisions to facilitate the use of a national technical means for treaty monitoring.

This, in my judgment, is a good treaty that will strengthen this country. It will reduce by 30 percent the number of strategic nuclear warheads that Russia could possess and target at the United States. It allows our country to determine our own force structure and gives us the flexibility to deploy and maintain our strategic nuclear forces in a way that best serves our own national security interests.

The new Nuclear Posture Review, as my colleagues know, says the United States will maintain the nuclear triad of land-based missiles, ballistic missile submarines, as well as bombers. The Obama administration has said as long as nuclear weapons exist, this country will maintain a safe, secure, and effective arsenal to deter any adversary and to protect our allies.

This new START treaty gives us an important window into Russia's strategic arsenal and to ensure that Russia will not be able to surprise us and try to change that balance.

This treaty contains no limits on our ability to continue developing and fielding missile defenses. Our country is doing some of that. Frankly, I have some questions about the cost and the effectiveness of some of what we are doing. Nonetheless, there is no limitation on that in this treaty.

As was done in the case of START, Russia has made a unilateral statement regarding missile defenses. Its statement is not legally binding and does not constrain us in any of our U.S. missile defense programs.

In my judgment, this treaty is very important. It is a very important first step—only a first step—because much more needs to be done. But it is important in terms of enhancing our security and world security. This will bolster, in my judgment, the Nonproliferation Treaty. It demonstrates that the United States and Russia are living up to their part of the deal under the NPT to begin reducing arms. I think it will strengthen Washington's hand in a tighter nuclear nonproliferation regime, especially at the May NPT conference.

Some Senators have said, as would be the case, I suppose, with any treaty: We are concerned about this because we think it weakens America's hand; we think it cuts our nuclear arsenal too deeply. I think they are wrong on that point. They are wrong. We have plenty of nuclear weapons. Not enough nuclear weapons is not among our problems; we have plenty. So do the Russians. We can blow up this planet 150 times and more. We have plenty of nuclear weapons. The question is, How do we and the Russians and others begin to reduce the number of nuclear weapons, and, most important, how do we stop the spread of nuclear weapons?

Let me put up a chart that shows what the Chairman of the Joint Chiefs of Staff said last month:

> I, the Vice Chairman, and the Joint Chiefs, as well as our combatant commanders around the world, stand solidly behind this new treaty, having had the opportunity to provide our counsel, to make our recommendations, and to help shape the final agreements.

This is the Chairman of the Joint Chiefs. He says he and the Joint Chiefs believe this represents our country's best national security interest.

Here is what some others are saying. Douglas Feith, not particularly unexpected. I can pretty much guess what he will say on anything dealing with security if I saw his name tag, I guess. Doug Feith, a former Defense official under the previous administration, says:

> Since the administration is so eager for [the treaty], the main interests of conservatives—

Meaning him and his friends, neocons among other things—

> will relate to modernization. Republicans are interested in the U.S. nuclear posture, the political leverage they have will be the treaty . . . One of the hot issues is going to be the replacement warhead . . .

What does he mean? We are going to use this treaty as leverage to force the government to develop a new nuclear warhead program called the RRW, the Reliable Replacement Warhead.

I am chairman of the subcommittee that funds that program. We stopped funding that warhead. That warhead was an outgrowth of the Congress deciding we are not going to fund the provision before it for another nuclear warhead. We remember the provision: Now we have to build earth-penetrating, bunker-buster nuclear weapons. That was the thing about 5 years ago.

The Congress said: We are not going to build earth-penetrating, bunker-buster nuclear weapons. There is no end to the menu of nuclear weapons some people want. We are not going to do that. That morphed into Reliable Replacement Warhead, RRW, that was to begin replacing our existing stock of warheads in a big program with the Navy, Air Force, and so on. We stopped that as well. We did not stop it because we did not have the money or anything like that. We stopped it because it is not necessary.

We have a process by which we certify that the current nuclear stockpile works, that it is effective. We have a process by which we do that. We have a lot of interest by other groups that have weighed in on the science of this, saying our existing stock of nuclear weapons will last much longer than some had suggested without spending hundreds of billions of dollars for replacement. Yet some will never be satisfied.

Here are statements by some Senators who also will want to use the ratification of this START treaty as leverage. One Senator said:

> Well, I can tell you this, that I think the Senate will find it very hard to support this treaty if there is not a robust modernization plan.

That is the need to design and build new nuclear weapons.

Another one said:

> The success of your administration in ensuring the modernization plan is fully funded in the authorization and appropriations process could have a significant impact on the Senate as it considers the START follow-on treaty.

And another one:

> My vote on the START treaty will thus depend in large measure on whether I am convinced the administration has put forward an appropriate and adequately funded plan to sustain and modernize the smaller nuclear stockpile it envisions.

As chairman of the Appropriations Energy and Water Development Subcommittee, I can tell my colleagues that the proposed budget for nuclear weapons, which is in my subcommittee, for fiscal year 2011 from this administration is more than enough to maintain the safety and reliability of our nuclear weapons; sufficient so that any Chairman of the Joint Chiefs can say with confidence and authority whose requirement it is to certify each year, that we have a nuclear arsenal that can be maintained as reliable and safe for the long-term future.

The National Nuclear Security Agency, the agency that oversees nuclear weapons, would see a 13-percent or $1.3 billion increase under this President's proposal. There are some who have argued this budget increase and planned future increases may not be sufficient to maintain the current stockpile. But that is just not the case. If we look at the budget request, the administration's budget request includes $7 billion for nuclear weapons activities. That is an increase of $624 million in this coming year. It invests significant money in what is called life extension programs. The nuclear weapons in our arsenal are not just the old nuclear weapons. We spend money all the time on life extension programs to make sure they are reliable.

I can go on and talk about the budget. The fact is, this President has sent us a budget that does what he thinks is necessary for the life extension programs and the additional funding. At a time when we have significant financial problems, he is proposing additional funding in this area.

This is a quote from Linton Brooks, who was the NNSA Administrator from 2003 to 2007 under George W. Bush, in February of this year:

> START, as I now understand it, is a good idea on its own merits, but I think for those who think it's only a good idea if you only have a strong weapons program, I think this budget ought to take care of that.
>
> Coupled with the out-year projections, it takes care of the concerns about the complex and it does very good things about the stockpile and it should keep the labs healthy. . . .

That is what he said. That is important to understand when my colleagues come to the floor of the Senate and say: I don't know that I can support arms reductions because we want to make sure we have more money spent on nuclear weapons to build a whole class of new nuclear weapons.

Understand, there is nothing partisan here. The person who last headed this agency under George W. Bush said this budget takes care of that. It will give us the confidence we need.

The September 2009 ''Report on the Lifetime Extension Program'' by the JASON Program Office, which is a very respected group of scientists, said this:

> JASON finds no evidence that accumulation of changes incurred from aging and life extension programs have increased risk to certification of today's deployed nuclear warheads.

Simple.

> Lifetimes of today's nuclear warheads could be extended for decades, with no anticipated loss in confidence, by using approaches similar to those employed in the life extension programs to date.

We have people around here who are just unbelievably anxious to get moving to begin building an entire new class of nuclear weapons. Yet we have evidence from the science of nuclear weapons that the existing stock of nuclear weapons can be maintained with life extension programs for decades. Why would we do that?

I wish to make a concluding point. I wanted to talk about the START program because it is so important to the future of our relationship with Russia. But much more important than that, it is important for the world.

I pulled out of my desk a wing strut from a backfire bomber and ground-up copper from a Russian submarine. I have taken a hinge from a missile silo in the Ukraine that had an SS–18 with a nuclear warhead aimed at the United States. I have all those in my desk just to remind me every day there is a way to reduce the number of nuclear weapons: reduce the delivery vehicles without having air-to-air combat, without firing intercontinental ballistic missiles, and without detonating nuclear warheads. It is the kind of program we have engaged in, the Nunn-Lugar program, the Global Threat Reduction Program, and it is also treaties such as the START treaty.

If it is not our responsibility and if it does not fall on our shoulders to provide the world leadership to stop the spread of nuclear weapons, who else is going to do that? Who else? If you read the book by Graham Allison or understand the consequences of both 9/11 and also October 11 of the same year and the report by a CIA agent code named Dragonfire, that a terrorist group had stolen a 10-kiloton weapon and would detonate it in an American city, if that doesn't send chills down your spine for the future of this world, then there is something fundamentally wrong with your system.

We have to understand if we do not back away from this difficult specter of a new world in which terrorists are trying very hard to acquire nuclear weapons—they don't have to acquire very much. They have to acquire the equivalent of perhaps a 2-liter bottle of highly enriched uranium. Think of one of those 2-liter Coke bottles at the gas station that sits on the counter the next time you go past, 2 liters of soft drink. Think of 2 liters of highly enriched nuclear material to produce one nuclear weapon.

Some of my colleagues, at least some folks kind of made light of, and some commentators on the radio made fun of the very large group of foreign leaders that was called to this town a week ago to deal with this question of how we get our arms around and begin securing loose nuclear materials that exist around the world. That was nothing to laugh at. That was a historic opportunity by this administration, a big deal by this President to say: You know what. That leadership is our responsibility, and we are going to call leaders from all around the world to talk about these loose nuclear materials that can be acquired by a terrorist organization and made into a bomb, and we are going to secure these materials. We are spending money to do that. We are spending money in our budget to do that. But this President said: Let's work much harder. Let's rededicate ourselves, and not just us, let's all of us rededicate ourselves to gather and secure the loose nuclear material and prevent access to that material by a terrorist organization.

Again, this responsibility falls to us. It is our responsibility to lead, to help stop the spread of nuclear weapons. It is also our responsibility, hopefully, to lead toward where the nonproliferation treaty insists we go; that is, to fewer and fewer and fewer nuclear weapons on this planet.

I understand we will not and should not disarm unilaterally. I fully understand that. But I also understand that

having 25,000 nuclear weapons stored in various locations on this planet is not healthy for the long-term prospect of life on Earth. So it is our responsibility. It is an important step, a step only in the direction because it is not the giant step. But an important first step is to ratify this START treaty.

The Russians and the Americans worked very hard to construct a treaty that I think has great merit and will provide for a safer world. Following the ratification of this treaty, then there is even more work to do, much more work to do. But this is the step along the way that is important for all of us to embrace.

I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DORGAN. Madam President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CAREGIVERS AND VETERANS OMNIBUS HEALTH SERVICES ACT

Mr. DORGAN. Madam President, I ask the Chair to lay before the Senate a message from the House with respect to S. 1963.

The PRESIDING OFFICER. The Chair lays before the Senate a message from the House, which the clerk will report.

The assistant legislative clerk read as follows:

S. 1963

Resolved, That the bill from the Senate (S. 1963) entitled ''An Act to amend title 38, United States Code, to provide assistance to caregivers of veterans, to improve the provision of health care to veterans, and for other purposes.'', do pass with an amendment.

Mr. AKAKA. Mr. President, as chairman of the Committee on Veterans' Affairs, I am proud to urge our colleagues to support S. 1963, the proposed ''Caregivers and Veterans Omnibus Health Services Act of 2010,'' as amended. This bill reflects a compromise agreement between the Committees on Veterans' Affairs of the Senate and the House of Representatives on health care and related provisions for veterans and their caregivers. The House passed this bill, by a vote of 419–0, on April 21, 2009.

When this bill was passed by the Senate on November 19, 2009, it would have greatly expanded assistance for veterans and family members. The bill in its current form, after being reconciled with legislation in the other body, provides even more robust services, but is also significantly less expensive than when this legislation was originally approved unanimously by the Senate.

The centerpiece of this bill is a new program of caregiver assistance for our most seriously wounded veterans. The Committee has heard over and over about family members who quit their jobs, go through their savings, and lose their health insurance as they stay home to care for their wounded family members from the current conflicts. For those family members who manage to keep their jobs, their employers, including many small businesses already struggling in these difficult economic times, lose money from absenteeism and declining productivity. The toll on the caregivers who try to do it all can be measured in higher rates of depression, and worse health status as they struggle to care for their seriously injured family members, an obligation that ultimately belongs to the Federal Government.

The caregiver program that will be established by this compromise bill will help VA to fulfill its obligation to care for the Nation's wounded veterans by providing their caregivers with vital support services and a living stipend. These vital caregiver support services include training, education, counseling, mental health services, and respite care. This measure also provides health care to the family caregivers of injured veterans through CHAMPVA. These caregivers deserve our support and assistance and this new program will begin to meet that obligation.

Another key part of the bill relates to women veterans. Women make up a significantly increasing portion of the overall veteran population. Thanks to the leadership of Senator MURRAY, this bill will increase funding for mental health services for women who have suffered military sexual trauma, and for medical services for newborn children. In addition, this bill requires VA to report on the barriers facing women veterans who seek health care at VA.

With the help of Senator TESTER, this bill also will improve veteran access to care in rural areas by authorizing VA to carry out demonstration projects for expanding care for veterans in rural areas through partnerships with other federal entities, such as the Centers for Medicare and Medicaid Services and the Indian Health Service. States which have an especially high number of veterans living in rural areas will benefit greatly from these programs.

This bill also expands the scope of VA's Education Debt Reduction Program to include retention in addition to recruitment so that VA can address staff shortages in rural areas. Where VA has a shortage of qualified employees due to location or hard-to-recruit positions, this legislation would increase the total education debt reduction payments made by VA from $44,000 to $60,000.

The bill also attacks another very difficult and painful problem—that of homeless veterans. On any given night, the best estimate is that more than 107,000 veterans are homeless. We know that homelessness is often a consequence of multiple factors, including unstable family support, job loss, and health problems. This bill will create programs to help ease the burden of veteran homelessness and, in so doing, support Secretary Shinseki's efforts to end homelessness among veterans.

Senator DURBIN has helped keep attention on issues of overall quality management in VA, and resolving and preventing such problems as those identified at the Marion, IL, VA medical center, and other facilities. Provisions of this bill will make needed improvements in these areas.

I am grateful to all who have worked diligently on this bipartisan bill—including the committee's ranking member, Senator BURR—and the veterans service organizations, who made this one of their priorities. We are particularly indebted to the Disabled American Veterans and the Wounded Warrior Project for being in the vanguard on advocating for family caregivers and for their unrelenting support for this legislation.

Various other advocates have supported this bill as well, including the American Legion, the Veterans of Foreign Wars, the Paralyzed Veterans of America, the Nurses Organization of Veterans Affairs, the Brain Injury Association of America, the American Academy of Ophthalmology, the American Association of Colleges of Nursing, and many others.

It has taken us several years to see this legislation through to what I hope will be final passage today. As we reach this final point in the legislative process, I take a moment to thank the members of the committee staff who worked so hard on this legislation, including former committee staffers who helped craft many of the provisions in this bill, Alexandra Sardegna, Aaron Sheldon, and Andrea Buck. I also thank current committee staff, Ryan Pettit, Preethi Raghavan, Nancy Hogan, and Lexi Simpson, and all the others who, in addition to their work on specific elements of the final agreement, have worked to bring this legislation to final passage.

We have promised to care for veterans when they return from service to the Nation. The provisions in this bill will help us keep our promise by going beyond words and ceremony, and providing the care that veterans have earned through their sacrifices.

I ask my colleagues to give this legislation their unanimous support.

I ask unanimous consent that an explanatory statement developed jointly with our counterparts in the House to accompany this compromise bill be printed in the RECORD at the conclusion of my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

EXPLANATORY STATEMENT SUBMITTED BY SENATOR AKAKA, CHAIRMAN OF THE SENATE COMMITTEE ON VETERANS' AFFAIRS

AMENDMENT OF THE HOUSE OF REPRESENTATIVES TO S. 1963 CAREGIVERS AND VETERANS OMNIBUS HEALTH SERVICES ACT OF 2010

S. 1963, as amended, the ''Caregivers and Veterans Omnibus Health Services Act of 2010,'' reflects the Compromise Agreement between the Committees on Veterans' Affairs of the Senate and the House of Representatives (the Committees) on health care

and related provisions for veterans and their caregivers. The provisions in the Compromise Agreement are derived from a number of bills that were introduced and considered by the House and Senate during the 111th Congress. These bills include S. 1963, a bill to provide assistance to caregivers of veterans, to improve the provision of health care to veterans, and for other purposes, which passed the Senate on November 19, 2009 (Senate bill); and H.R. 3155, a bill to provide certain caregivers of veterans with training, support, and medical care, and for other purposes, which passed the House on July 27, 2009 (House bill).

In addition, the Compromise Agreement includes provisions derived from the following bills which were passed by the House: H.R. 402, a bill to designate the Department of Veterans Affairs Outpatient Clinic in Knoxville, Tennessee, as the ''William C. Tallent Department of Veterans Affairs Outpatient Clinic,'' passed by the House on July 14, 2009; H.R. 1211, a bill to expand and improve health care services available to women veterans, especially those serving in Operation Enduring Freedom and Operation Iraqi Freedom, from the Department of Veterans Affairs, and for other purposes, passed by the House on June 23, 2009; H.R. 1293, a bill to provide for an increase in the amount payable by the Secretary of Veterans Affairs to veterans for improvements and structural alterations furnished as part of home health services, passed by the House on July 28, 2009; H.R. 2770, a bill to modify and update provisions of law relating to nonprofit research and education corporations, and for other purposes, passed by the House on July 27, 2009; H.R. 3157, a bill to name the Department of Veterans Affairs outpatient clinic in Alexandria, Minnesota, as the ''Max J. Beilke Department of Veterans Affairs Outpatient Clinic,'' passed by the House on November 3, 2009; H.R. 3219, a bill to make certain improvements in the laws administered by the Secretary of Veterans Affairs relating to insurance and health care, and for other purposes, passed by the House on July 27, 2009; and H.R. 3949, a bill to make certain improvements in the laws relating to benefits administered by the Secretary of Veterans Affairs, and for other purposes, passed by the House on November 3, 2009.

The Compromise Agreement also includes provisions derived from the following House bills, which were introduced and referred to the Subcommittee on Health of the House Committee on Veterans' Affairs: H.R. 919, to enhance the capacity of the Department of Veterans Affairs to recruit and retain nurses and other critical health care professionals, and for other purposes, which was introduced on February 9, 2009; H.R. 3796, to improve per diem grant payments for organizations assisting homeless veterans, which was introduced on October 13, 2009; and H.R. 4166, to make certain improvements in the laws administered by the Secretary of Veterans Affairs relating to educational assistance for health professionals, and for other purposes, which was introduced on December 1, 2009, and was concurrently referred to the Committee on Energy and Commerce.

The House and Senate Committees on Veterans' Affairs have prepared the following explanation of the Compromise Agreement. Differences between the provisions contained in the Compromise Agreement and the related provisions in the bills listed above are noted in this document, except for clerical corrections and conforming changes, and minor drafting, technical, and clarifying changes.

TITLE I—CAREGIVER SUPPORT

Assistance and Support Services for Family Caregivers (section 101)

The Senate bill contains a provision (section 102) that would create a new program to help caregivers of eligible veterans who, together with the veteran, submit a joint application requesting services under the new program. Eligible veterans are defined as those who have a serious injury, including traumatic brain injury, psychological trauma, or other mental disorder, incurred or aggravated while on active duty on or after September 11, 2001. Within two years of program implementation, the Department of Veterans Affairs (VA) would be required to submit a report on the feasibility and advisability of extending the program to veterans of earlier periods of service. Severely injured veterans are defined as those who need personal care services because they are unable to perform one or more independent activities of daily living, require supervision as a result of neurological or other impairments, or need personal care services because of other matters specified by the VA. For accepted caregiver applicants, VA would be required to provide respite care as well as pay for travel, lodging and per-diem expenses while the caregiver of an eligible veteran is undergoing necessary training and education to provide personal care services. Once a caregiver completes training and is designated as the primary personal care attendant, this individual would receive ongoing assistance including direct technical support, counseling and mental health services, respite care of no less than 30 days annually, health care through the Civilian Health and Medical Program of the Department of Veterans Affairs (CHAMPVA), and a monthly financial stipend. The provision in the Senate bill would require VA to carry out oversight of the caregiver by utilizing the services of home health agencies. A home health agency would be required to visit the home of a veteran not less often than once every six months and report its findings to VA. Based on the findings, VA would have the final authority to revoke a caregiver's designation as a primary personal care attendant. The provision also would require an implementation and evaluation report, and provide for an effective date 270 days after the date of the enactment of this Act.

The House bill contains comparable provisions (section 2 and section 4) with some key differences. The provisions in the House bill would provide educational sessions, access to a list of comprehensive caregiver support services available at the county level, information and outreach, respite care, and counseling and mental health services to family and non-family caregivers of veterans of any era. For family caregivers of eligible veterans who served in Operation Enduring Freedom (OEF) or Operation Iraqi Freedom (OIF), the House bill would require VA to provide a monthly financial stipend, health care service through CHAMPVA, and lodging and subsistence to the caregiver when the caregiver accompanies the veteran on medical care visits. Eligible OEF or OIF veterans are defined as those who have a service-connected disability or illness that is severe; in need of caregiver services without which the veteran would be hospitalized, or placed in nursing home care or other residential institutional care; and are unable to carry out activities (including instrumental activities) of daily living.

The Compromise Agreement contains the Senate provision modified to no longer require VA to enter into relationships with home health agencies to make home visits every six months. In addition, the Compromise Agreement follows the House bill in creating a separate program of general family caregiver support services for family and non-family caregivers of veterans of any era. Such support services would include training and education, counseling and mental health services, respite care, and information on the support services available to caregivers through other public, private, and nonprofit agencies. In the event that sufficient funding is not available to provide training and education services, the Secretary would be given the authority to suspend the provision of such services. The Secretary would be required to certify to the Committees that there is insufficient funding 180 days before suspending the provision of these services. This certification and the resulting suspension of services would expire at the end of the fiscal year concerned.

The overall caregiver support program for caregivers of eligible OEF or OIF veterans would authorize VA to provide training and supportive services to family members and certain others who wish to care for a disabled veteran in the home and to allow veterans to receive the most appropriate level of care. The newly authorized supportive services would include training and certification, a living stipend, and health care—including mental health counseling, transportation benefits, and respite.

The Compromise Agreement also includes an authorization for appropriations that is below the estimate furnished by the Congressional Budget Office. The lower authorization level is based on information contained in a publication (Economic Impact on Caregivers of the Seriously Wounded, Ill, and Injured, April 2009) of the Center for Naval Analyses (CNA). This study estimated that, annually, 720 post-September 11, 2001 veterans require comprehensive caregiver services. The Compromise Agreement limits the caregiver program only to ''seriously injured or very seriously injured'' veterans who were injured or aggravated an injury in the line of duty on or after September 11, 2001. CNA found that the average requirement for such caregiver services is 18 months, and that only 43 percent of veterans require caregiver services over the long-term. CNA also found that, on average, veterans need only 21 hours of caregiver services per week. Only 233 family caregivers were referred by VA for training and certification through existing home health agencies in FY 2008. This represented five percent of all home care referrals. In FY 2009, only 168 family caregivers were referred to home care agencies for training and certification.

Medical Care for Family Caregivers (section 102)

The Senate bill contains a provision (section 102) that would provide health care through the CHAMPVA program for individuals designated as the primary care attendant for eligible OEF or OIF veterans and who have no other insurance coverage.

The House bill contains a comparable provision (section 5), with a difference in the target population. Under the House bill, the target population would include all family caregivers of eligible OEF or OIF veterans, defined as those who have a service-connected disability or illness that is severe; are in need of caregiver services without which hospitalization, nursing home care, or other residential institutional care would be required; and, are unable to carry out activities (including instrumental activities) of daily living.

The Compromise Agreement contains the Senate provision.

Counseling and Mental Health Services for Family Caregivers (section 103)

The Senate bill contains a provision (section 102) that would provide counseling and mental health services for family caregivers of OEF or OIF veterans.

The House bill contains a comparable provision (section 3), except that counseling and mental health services would be available to caregivers of veterans of any era.

The Compromise Agreement contains the House provision.

Lodging and Subsistence for Attendants (section 104)

The Senate bill contains a provision (section 103) that would allow VA to pay for the lodging and subsistence costs incurred by any attendant who accompanies an eligible OEF or OIF veteran seeking VA health care.

The House bill contains a comparable provision (section 6), with a difference in the target population. Under the House bill, the target population would include all family caregivers of eligible OEF or OIF veterans, defined as those who have a service-connected disability or illness that is severe; are in need of caregiver services without which hospitalization, nursing home care, or other residential institutional care would be required; and, are unable to carry out activities (including instrumental activities) of daily living.

The Compromise Agreement contains the Senate provision.

TITLE II—WOMEN VETERANS HEALTH CARE MATTERS

Study of Barriers for Women Veterans to Health Care from the Department of Veterans Affairs (section 201)

The Senate bill contains a provision (section 201) that would require VA to report, by June 1, 2010, on barriers facing women veterans who seek health care at VA, especially women veterans of OEF or OIF.

H.R. 1211 contains a comparable provision (section 101) that would require a similar study of health care barriers for women veterans. The House provision also would define the parameters of the research study sample; direct VA to build on the work of an existing study entitled ''National Survey of Women Veterans in Fiscal Year 2007–2008;'' mandate VA to share the barriers study data with the Center for Women Veterans and the Advisory Committee on Women Veterans; and authorize appropriations of $4 million to conduct the study. VA would be required to submit to Congress a report on the implementation of this section within six months of the publication of the ''National Survey of Women Veterans in Fiscal Year 2007–2008,'' and the final report within 30 months of publication.

The Compromise Agreement contains the House provision.

Training and Certification for Mental Health Care Providers of the Department of Veterans Affairs on Care for Veterans Suffering From Sexual Trauma and Post-Traumatic Stress Disorder (section 202)

The Senate bill contains a provision (section 204) that would require VA to implement a program for education, training, certification, and continuing medical education for mental health professionals, which would include principles of evidence-based treatment and care for sexual trauma. VA would also be required to submit an annual report on the counseling, care, and services provided to veterans suffering from sexual trauma, and to establish education, training, certification, and staffing standards for personnel providing treatment for veterans with sexual trauma.

H.R. 1211 contains a similar provision (section 202), except it included no provision requiring VA to establish education, training, certification, and staffing standards for the mental health professionals caring for veterans with sexual trauma.

The Compromise Agreement contains the House provision.

Pilot Program on Counseling in Retreat Settings for Women Veterans Newly Separated From Service in the Armed Forces (section 203)

The Senate bill contains a provision (section 205) that would require VA to establish, at a minimum of five locations, a two year pilot program in which women veterans newly separated from the Armed Forces would receive reintegration and readjustment services in a group retreat setting. The provision also would require a report detailing the pilot program findings and providing recommendations on whether VA should continue or expand the pilot program.

There was no comparable House provision.

The Compromise Agreement contains the Senate provision but specifies that the program be carried out at a minimum of three, not five, locations.

Service on Certain Advisory Committees of Women Recently Separated From Service in the Armed Forces (section 204)

The Senate bill contains a provision (section 207) that would amend the membership of the Advisory Committee on Women Veterans and the Advisory Committee on Minority Veterans to require that such committees include women recently separated from the Armed Forces and women who are minority group members and are recently separated from the Armed Forces, respectively.

H.R. 1211 contains a similar provision (section 204) except that it would allow either men or women who are members of a minority group to serve on the Advisory Committee on Minority Veterans.

The Compromise Agreement contains the Senate provision.

Pilot Program on Subsidies for Child Care for Certain Veterans Receiving Health Care (section 205)

The Senate bill contains a provision (section 208) that would require VA to establish a pilot program through which child care subsidies would be provided to women veterans receiving regular and intensive mental health care and intensive health care services. The pilot program would be carried out in no fewer than three Veterans Integrated Service Networks (VISNs) for a duration of two years and, at its conclusion, there would be a requirement for a report to be submitted within six months detailing findings related to the program and recommendations on its continuation or extension. The provision also would direct VA, to the extent practicable, to model the pilot program after an existing VA Child Care Subsidy Program.

H.R. 1211 contains a comparable provision (section 203), but it does not stipulate that the child care program shall be executed through stipends. Rather, stipends are one option among several listed, including partnership with private agencies, collaboration with facilities or program of other Federal departments or agencies, and the arrangement of after-school care.

The Compromise Agreement contains the Senate provision, with a modification to clarify that the child care subsidy payments shall cover the full cost of child care services. In addition, the provision expands the definition of veterans who qualify for the child care subsidy to women veterans who are in need of regular or intensive mental health care services but who do not seek such care due to lack of child care services. Finally, the Compromise Agreement follows the House provision by allowing for other forms of child care assistance. In addition to stipends, child care services may be provided through the direct provision of child care at an on-site VA facility, payments to private child care agencies, collaboration with facilities or programs of other Federal departments or agencies, and other forms as deemed appropriate by the Secretary.

Care for Newborn Children of Women Veterans Receiving Maternity Care (section 206)

The Senate bill contains a provision (section 209) that would authorize VA to provide post-delivery health care services to a newborn child of a woman veteran receiving maternity care from VA if the child was delivered in a VA facility or a non-VA facility pursuant to a VA contract for delivery. Such care would be authorized for up to seven days.

H.R. 1211 contains a comparable provision (section 201), but would allow VA to provide care for a set seven-day period for newborn children of women veterans receiving maternity care.

The Compromise Agreement contains the Senate provision.

TITLE III—RURAL HEALTH IMPROVEMENTS

Improvements to the Education Debt Reduction Program (section 301)

The Senate bill contains a provision (section 301) that would eliminate the cap in current law on the total amount of education debt reduction payments that can be made over five years so as to permit payments equal to the total amount of principal and interest owed on eligible loans.

H.R. 4166 contains a provision (section 3), that would expand the purpose of the Education Debt Reduction Program (EDRP), set forth in subchapter VII of chapter 76 of title 38, United States Code., to include retention in addition to recruitment, as well as to modify and expand the eligibility requirements for participation in the program. In addition, the provision would increase the total education debt reduction payments made by VA from $44,000 to $60,000 and raise the cap on payments to be made during the fourth and fifth years of the program from $10,000 to $12,000. The provision would also provide VA with the flexibility to waive the limitations of the EDRP and pay the full principal and interest owed by participants who fill hard-to-recruit positions at VA.

The Compromise Agreement contains the House provision.

Visual Impairment and Orientation and Mobility Professionals Education Assistance Program (section 302)

The Senate bill contains a provision (section 302) that would require VA to establish a scholarship program for students accepted or enrolled in a program of study leading to certification or a degree in the areas of visual impairment or orientation and mobility. The student would be required to agree to maintain an acceptable level of academic standing as well as join VA as a full-time employee for three years following their completion of the program. VA would be required to disseminate information on the scholarship program throughout educational institutions, with a special emphasis on those with a high number of Hispanic students and Historically Black Colleges and Universities.

H.R. 3949 contains the same provision (section 302).

The Compromise Agreement contains this provision.

Demonstration Projects on Alternatives for Expanding Care for Veterans in Rural Areas (section 303)

The Senate bill contains a provision (section 305) that would authorize VA to carry out demonstration projects to expand care to veterans in rural areas through the Department's Office of Rural Health. Projects could include VA establishing a partnership with the Centers for Medicare and Medicaid Services to coordinate care for veterans in rural areas at critical access hospitals, developing a partnership with the Department of Health and Human Services to coordinate care for veterans in rural areas at community health centers, and the expanding coordination with the Indian Health Service to enhance care for Native American veterans.

There was no comparable House provision.

The Compromise Agreement contains the Senate provision.

Program on Readjustment and Mental Health Care Services for Veterans Who Served in Operation Enduring Freedom and Operation Iraqi Freedom (section 304)

The Senate bill contains a provision (section 306) that would require VA to establish a program providing OEF and OIF veterans with mental health services, readjustment counseling and services, and peer outreach and support. The program would also provide the immediate families of these veterans with education, support, counseling, and mental health services. In areas not adequately served by VA facilities, VA would be authorized to contract with community mental health centers and other qualified entities for the provision of such services, as well as provide training to clinicians and contract with a national non-profit mental health organization to train veterans participating in the peer outreach and support program. The provision would require an initial implementation report within 45 days after enactment of the legislation. Additionally, the Secretary would be required to submit a status report within one year of enactment of the legislation detailing the number of veterans participating in the program as well as an evaluation of the services being provided under the program.

There was no comparable House provision.

The Compromise Agreement contains the Senate provision, but does not include the reporting requirement and authorizes rather than requires VA to contract with community mental health centers and other qualified entities in areas not adequately served by VA facilities.

Travel Reimbursement for Veterans Receiving Treatment at Facilities of the Department of Veterans Affairs (section 305)

The Senate bill contains a provision (section 308) that would authorize VA to increase the mileage reimbursement rate under section 111 of title 38, United States Code, to 41.5 cents per mile, and, a year after the enactment of this legislation, allow the Secretary to adjust the newly specified mileage rate to be equal to the rate paid to Government employees who use privately owned vehicles on official business. If such an adjustment would result in a lower mileage rate, the Secretary would be required to submit to Congress a justification for the lowered rate. The provision also would allow the Secretary to reimburse veterans for the reasonable cost of airfare when that is the only practical way to reach a VA facility.

There was no comparable House provision.

The Compromise Agreement contains the Senate provision.

Pilot Program on Incentives for Physicians Who Assume Inpatient Responsibilities at Community Hospitals in Health Professional Shortage Areas (section 306)

The Senate bill contains a provision (section 313) that would require VA to establish a pilot program under which VA physicians caring for veterans admitted to community hospitals would receive financial incentives, of an amount deemed appropriate by the Secretary, if they maintain inpatient privileges at community hospitals in health professional shortage areas. Participation in the pilot program would be voluntary. VA would be required to carry out the pilot program for three years, in not less than five community hospitals in each of not fewer than two VISNs. In addition, VA would be authorized to collect third party payments for care provided by VA physicians to nonveterans while carrying out their responsibilities at the community hospital where they are privileged.

There was no comparable House provision.

The Compromise Agreement contains the Senate provision.

Grants for Veterans Service Organizations for Transportation of Highly Rural Veterans (section 307)

The Senate bill contains a provision (section 315) that would require VA to establish a grant program to provide innovative transportation options to veterans in highly rural areas. Eligible grant recipients would include state veterans service agencies and veterans service organizations, and grant awards would not exceed $50,000.

There was no comparable House provision.

The Compromise Agreement contains the Senate provision.

Modifications of Eligibility for Participation in Pilot Program of Enhanced Contract Care Authority for Health Care Needs of Certain Veterans (section 308)

The Senate bill contains a provision (section 316) that would clarify the definition of eligible veterans who are covered under a pilot program of enhanced contract care authority for rural veterans, created by section 403(b) of the Veterans' Mental Health and Other Care Improvements Act of 2008 (P.L. 110–387, 122 Stat. 4110). Eligible veterans would be defined to include those living more than 60 minutes driving distance from the nearest VA facility providing primary care services, living more than 120 minutes driving distance from the nearest VA facility providing acute hospital care, and living more than 240 minutes driving distance from the nearest VA facility providing tertiary care.

H.R. 3219 contains the same provision (section 206).

The Compromise Agreement contains this provision.

TITLE IV—MENTAL HEALTH CARE MATTERS

Eligibility of Members of the Armed Forces Who Served in Operation Enduring Freedom or Operation Iraqi Freedom for Counseling and Services Through Readjustment Counseling Services (section 401)

The Senate bill contains a provision (section 401) that would allow any member of the Armed Forces, including members of the National Guard or Reserve, who served in OEF or OIF to be eligible for readjustment counseling services at VA Readjustment Counseling Centers, also known as Vet Centers. The provision of such services would be limited by the availability of appropriations so that this new provision would not adversely affect services provided to the veterans that Vet Centers are currently serving.

There was no comparable House provision.

The Compromise Agreement contains the Senate provision.

Restoration of Authority of Readjustment Counseling Service To Provide Referral and Other Assistance Upon Request to Former Members of the Armed Forces Not Authorized Counseling (section 402)

The Senate bill contains a provision (section 402) that would require VA to help former members of the Armed Forces who have been discharged or released from active duty, but who are not otherwise eligible for readjustment counseling. VA would be authorized to help these individuals by providing them with referrals to obtain counseling and services from sources outside of VA, or by advising such individuals of their right to apply for a review of their release or discharge through the appropriate military branch of service.

There was no comparable House provision.

The Compromise Agreement contains the Senate provision.

Study on Suicides among Veterans (section 403)

The Senate bill contains a provision (section 403) that would require VA to conduct a study to determine the number of veterans who committed suicide between January 1, 1999 and the enactment of the legislation. To conduct this study, VA would be required to coordinate with the Secretary of Defense, veterans' service organizations, the Centers for Disease Control and Prevention, and state public health offices and veterans agencies.

There was no comparable House provision.

The Compromise Agreement contains the Senate provision.

TITLE V—OTHER HEALTH CARE MATTERS

Repeal of Certain Annual Reporting Requirements (section 501)

The Senate bill contains a provision (section 501) that would eliminate the reporting requirements, set forth in sections 7451 and 8107 of title 38, United States Code, on pay adjustments for registered nurses. These reporting requirements date to a time when VA facility directors had the discretion to offer annual General Schedule (GS) comparability increases to nurses. Current law requires VA to provide GS comparability increases to nurses so that that pay adjustment report is no longer necessary. The provision would also eliminate the reporting requirement on VA's long-range health care planning which included the operations and construction plans for medical facilities. The information contained in this report is already submitted in other reports and plans, in particular the Department's annual budget request.

There was no comparable House provision.

The Compromise Agreement contains the Senate provision.

Submittal Date of Annual Report on Gulf War Research (section 502)

The Senate bill contains a provision (section 502) that would amend the due date of the Annual Gulf War Research Report from March 1 to July 1 of each of the five years with the first report due in 2010.

There was no comparable House provision.

The Compromise Agreement contains the Senate provision.

Payment for Care Furnished to CHAMPVA Beneficiaries (section 503)

The Senate bill contains a provision (section 503) that would clarify that payments made by VA to providers who provide medical care to a beneficiary covered under CHAMPVA shall constitute payment in full, thereby removing any liability on the part of the beneficiary.

There was no comparable House provision.

The Compromise Agreement contains the Senate provision.

Disclosure of Patient Treatment Information from Medical Records of Patients Lacking Decision-making Capacity (section 504)

The Senate bill contains a provision (section 504) that would authorize VA health care practitioners to disclose relevant portions of VA medical records to surrogate decision-makers who are authorized to make decisions on behalf of patients lacking decision-making capacity. The provision would only allow such disclosures where the information is clinically relevant to the decision that the surrogate is being asked to make.

There was no comparable House provision.

The Compromise Agreement contains the Senate provision.

Enhancement of Quality Management (section 505)

The Senate bill contains a provision (section 506) that would create a National Quality Management Officer to act as the principal officer responsible for the Veteran Health Administration's quality assurance program. The provision would require each VISN and medical facility to appoint a quality management officer, as well as require

VA to carry out a review of policies and procedures for maintaining health care quality and patient safety.

There was no comparable House provision.

The Compromise Agreement contains the Senate provision.

Pilot Program on Use of Community-Based Organizations and Local and State Government Entities to Ensure that Veterans Receive Care and Benefits for Which They are Eligible (section 506)

The Senate bill contains a provision (section 508) that would require VA to create a pilot program to study the use of community organizations and local and State government entities in providing care and benefits to veterans. The grantees would be selected for their ability to increase outreach, enhance the coordination of community, local, state, and Federal providers of health care, and expand the availability of care and services to transitioning servicemembers and their families. The two-year pilot program would be required to be implemented in five locations and, in making the site selections, the Secretary would be required to give special consideration to rural areas, areas with high proportions of minority groups, areas with high proportions of individuals who have limited access to health care, and areas that are not in close proximity to an active duty military station.

There was no comparable House provision.

The Compromise Agreement contains the Senate provision, but would give VA 180 days to implement the pilot program.

Specialized Residential Care and Rehabilitation for Certain Veterans (section 507)

The Senate bill contains a provision (section 509) that would authorize VA to contract for specialized residential care and rehabilitation services for certain veterans. Eligible veterans would be those who served in OEF or OIF, suffer from a traumatic brain injury (TBI), and possess an accumulation of deficits in activities of daily living and instrumental activities of daily living that would otherwise require admission to a nursing home.

There was no comparable House provision.

The Compromise Agreement contains the Senate provision.

Expanded Study on the Health Impact of Project Shipboard Hazard and Defense (section 508)

The Senate bill contains a provision (section 510) that would require VA to contract with the Institute of Medicine (IOM) to study the health impact of veterans' participation in Project Shipboard Hazard and Defense (SHAD). The study would be intended to cover, to the extent practicable, all veterans who participated in Project SHAD and may utilize results from the study included in IOM's report on ''Long-Term Health Effects of Participation in Project SHAD.''

There was no comparable House provision.

The Compromise Agreement contains the Senate provision.

Use of Non-Department Facilities for Rehabilitation of Individuals with Traumatic Brain Injury (section 509)

The Senate bill contains a provision (section 511) that would clarify when non-VA facilities may be utilized to provide treatment and rehabilitative services for veterans and members of the Armed Forces with TBI. Specifically, the provision would allow non-VA facilities to be used when VA cannot provide treatment or services at the frequency or duration required by the individual plan of the veteran or servicemember with TBI. The provision also would allow the use of non-VA facilities if VA determines that it is optimal for the recovery and rehabilitation of the veteran or servicemember. Such non-VA facility would be required to maintain standards that have been established by an independent, peer-reviewed organization that accredits specialized rehabilitation programs for adults with TBI.

There was no comparable House provision.

The Compromise Agreement contains the Senate provision.

Pilot Program on Provision of Dental Insurance Plans to Veterans and Survivors and Dependents of Veterans (section 510)

The Senate bill contains a provision (section 513) that would require VA to carry out a three-year pilot program to provide specified dental services through a contract with a dental insurer. Additionally, the provision would provide that the pilot program should take place in at least two but no more than four VISNs and that enrollment would be voluntary. The program would provide diagnostic services, preventive services, endodontic and other restorative services, surgical services, emergency services, and such other services as VA considers appropriate.

There was no comparable House provision.

The Compromise Agreement contains the Senate provision, modified to provide that the pilot program may take place in any number of VISNs the Secretary deems appropriate. The purpose of providing the Secretary with this authority is to ensure the capability, should it be required, to maximize the number of voluntary enrollees insured under the dental program so as to reduce premium expenditures.

Prohibition on Collection of Copayments from Veterans who are Catastrophically Disabled (section 511)

The Senate bill contains a provision (section 515) that would add a new section 1730A in title 38, United States Code, to prohibit VA from collecting copayments from catastrophically disabled veterans for medical services rendered, including prescription drug and nursing home care copayments.

H.R. 3219 contains the same provision (section 203).

The Compromise Agreement contains this provision.

Higher Priority Status for Certain Veterans Who Are Medal of Honor Recipients (section 512)

H.R. 3519 contains a provision (section 201) that would amend section 1705 of title 38, United States Code, to place Medal of Honor recipients in priority group 3 for the purposes of receiving health care through VA. This would situate Medal of Honor recipients in a priority group with former prisoners of war and Purple Heart recipients.

The Senate bill contains no comparable provision.

The Compromise Agreement contains the House provision.

Hospital Care, Medical Services, and Nursing Home Care for Certain Vietnam-Era Veterans Exposed to Herbicide and Veterans of the Persian Gulf War (section 513)

H.R. 3219 contains a provision (section 202) that would amend section 1710 of title 38, United States Code, to provide permanent authorization for the special treatment authority of Vietnam-era veterans exposed to an herbicide and Gulf-War era veterans who have insufficient medical evidence to establish a service-connected disability.

The Senate bill contains no comparable provision.

The Compromise Agreement contains the House provision.

Establishment of Director of Physician Assistant Services in Veterans Health Administration (section 514)

H.R. 3219 contains a provision (section 204) that would create the position of Director of Physician Assistant Services in VA central office who would report directly to the Under Secretary for Health on all matters related to education, training, employment, and proper utilization of physician assistants.

The Senate bill contains no comparable provision.

The Compromise Agreement contains the House provision, modified to require the Director of Physician Assistant Services to report directly to the Chief of the Office of Patient Services instead of to the Under Secretary for Health.

Committee on Care of Veterans With Traumatic Brain Injury (section 515)

H.R. 3219 contains a provision (section 205) that would require VA to establish a Committee on Care of Veterans with Traumatic Brain Injury. This Committee would be required to evaluate VA's capacity to meet the treatment and rehabilitative needs of veterans with TBI, as well as make recommendations and advise the Under Secretary for Health on matters relating to this condition. Additionally, VA would be required to submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives an annual report on the Committee's findings and recommendations and the Department's response.

The Senate bill contains no comparable provision.

The Compromise Agreement contains the House provision.

Increase in Amount Available to Disabled Veterans for Improvements and Structural Alterations Furnished as Part of Home Health Services (section 516)

H.R. 1293 contains a provision that would increase, from $4,100 to $6,800, the amount authorized to be paid to veterans who have service-connected disabilities rated 50 percent or more disabling for home improvements and structural alterations. The provision would also increase from $1,200 to $2,000, the amount authorized to be paid to veterans with service-connected disabilities rated less than 50 percent disabling.

The Senate bill contains no comparable provision.

The Compromise Agreement contains the House provision.

Extension of Statutorily Defined Copayments for Certain Veterans for Hospital Care and Nursing Home Care (section 517)

Under current law, VA has the authority to provide hospital and nursing home care on a space available basis to veterans who do not otherwise qualify for such care. VA is authorized to collect from such a veteran an amount equal to $10 for every day that a veteran receives hospital care, and $5 for every day a veteran receives nursing home care. This authority expires on September 30, 2010.

Neither the House nor Senate bills contain a provision to extend this authority.

The Compromise Agreement contains a provision which would extend the statutorily defined copayments for certain veterans for hospital care and nursing home care to September 30, 2012.

Extension of Authority To Recover Cost of Certain Care and Services From Disabled Veterans With Health-Plan Contracts (section 518)

Under current law, VA is authorized to recover the costs associated with medical care provided to a veteran for a non-service-connected disability if, among other eligibility criteria, the veteran receives such care before October 1, 2010, the veteran has a service-connected disability, and the veteran is entitled to benefits for health care under a health-plan contract.

Neither the House nor Senate bills contain a provision to extend this authority.

The Compromise Agreement contains a provision which would extend the authority to recover the cost of such care and services from disabled veterans with health-plan contracts to October 1, 2012.

TITLE VI—DEPARTMENT PERSONNEL MATTERS

Enhancement of Authorities for Retention of Medical Professionals (section 601)

The Senate bill contains provisions (section 601) intended to improve VA's ability to recruit and retain health professionals. First, VA would be given the authority to apply the title 38 hybrid employment system to additional health care occupations to meet the recruitment and retention needs of VA. Next, the probationary period for full-time and part-time registered nurses would be set at two years; part-time registered nurses who served previously on a full-time basis would not be subject to a probationary period. In addition, VA would be authorized to waive the salary offset where the salary of an employee rehired after retirement from the Veterans Health Administration is reduced according to the amount of their annuity under a federal government retirement system.

Section 601 also would provide for a number of new or expanded pay authorities, including setting the pay for all senior executives in the Office of the Under Secretary for Health at Level II or Level III of the Executive Schedule; authorizing recruitment and retention special incentive pay for pharmacist executives of up to $40,000; amending the pay provisions of physicians and dentists by clarifying the determination of the non-foreign cost of living adjustment, exempting physicians and dentists in executive leadership positions from compensation panels, and allowing for a reduction in market pay for changes in board certification or a reduction of privileges; modifying the pay cap for registered nurses and other covered positions to Level IV of the Executive Schedule; allowing the pay for certified registered nurse anesthetists to exceed the pay caps for registered nurses; increasing the limitation on special pay for nurse executives from $25,000 to $100,000; adding licensed practical nurses, licensed vocational nurses, and nursing positions covered by title 5 to the list of occupations that are exempt from the limitations on increases in rates of basic pay; and expanding the eligibility for additional premium pay to part-time nurses. Finally, section 601 would improve VA's locality pay system by requiring VA to provide education, training, and support to the directors of VA health care facilities on the use of locality pay system surveys.

H.R. 919 contains a comparable provision (section 2) which would not, in contrast to the Senate bill, restrict VA from applying hybrid title 38 status to positions that are administrative, clerical or physical plant maintenance and protective services, would otherwise be included under the authority of section 5332 of title 5, United States Code; do not provide direct patient care services, or would otherwise be available to provide medical care and treatment for veterans. The House provision also would not place restrictions on the categories of part-time nurses for whom the probationary period would be waived. The House section contains an additional provision which would provide comparability pay up to $100,000 per year to all individuals appointed by the Under Secretary for Health under the authority of section 7306 of title 38, United States Code, who are not physicians or dentists and who would be compensated at a higher rate in the private sector.

The Compromise Agreement contains the Senate provision, modified to eliminate the provision of the Senate bill that would provide VA with the authority to waive salary offsets for retirees who are reemployed in the Veterans Health Administration.

Limitations on Overtime Duty, Weekend Duty, and Alternative Work Schedules for Nurses (section 602)

The Senate bill contains a provision (section 602) that would prohibit VA from requiring nurses to work more than 40 hours in an administrative work week or more than 8 hours consecutively, except under unanticipated emergency conditions in which the nurses' skills are necessary and good faith efforts to find voluntary replacements have failed. The provision also would strike subsection 7456(c) of title 38, United States Code, which provides that nurses on approved sick or annual leave during a 12-hour work shift shall be charged at a rate of five hours of leave per three hours of absence. Finally, for recruitment and retention purposes, VA would be authorized to consider a nurse who has worked 6 regularly scheduled 12-hour work shifts within a 14-day period to have worked a full 80-hour pay period.

H.R. 919 contains the same provision (section 3).

The Compromise Agreement contains this provision.

Reauthorization of Health Professionals Educational Assistance Scholarship Program (section 603)

H.R. 919 contains a provision (section 4) that would reinstate the Health Professionals Educational Assistance Scholarship Program. Section 2 of H.R. 4166 contains a similar provision which would also direct VA to fully employ program graduates as soon as possible following their graduation, require graduates to perform clinical rotations in assignments or locations determined by VA, and assign a mentor to graduates in the same facility in which they are serving.

The Senate bill contains a similar provision but did not include the requirement to fully employ graduates as soon as possible.

The Compromise Agreement contains the provision from section 2 of H.R. 4166.

Loan Repayment Program for Clinical Researchers From Disadvantaged Backgrounds (section 604)

H.R. 919 (section 4) and H.R. 4166 (section 4) contain identical provisions that would allow VA to utilize the authorities available in the Public Health Service Act for the repayment of the principal and interest of educational loans of health professionals from disadvantaged backgrounds in order to employ such professionals in the Veterans Health Administration to conduct clinical research.

The Senate bill contains the same provision (section 603).

The Compromise Agreement contains this provision.

TITLE VII—HOMELESS VETERANS MATTERS

Per Diem Grant Payments (section 701)

H.R. 3796 contains a provision that would authorize VA to make per diem payments to organizations assisting homeless veterans in an amount equal to the greater of the daily cost of care or $60 per bed, per day. The provision would also require VA to ensure that 25 percent of the funds available for per diem payments are distributed to organizations that meet some but not all of the criteria for the receipt of per diem payments. These would include (in order of priority) organizations that meet each of the transitional and supportive services criteria and serve a population that is less than 75 percent veterans; organizations that meet at least one but not all of the transitional and supportive services criteria, but have a population that is at least 75 percent veterans; or organizations that meet at least one but not all of the transitional and supportive services criteria and serve a population that is less than 75 percent veterans.

The Senate bill contains no comparable provision.

The Compromise Agreement contains the House provision, but does not require the minimum amount of $60 per bed, per day for the Grant and Per Diem program. In addition, VA would be authorized but not required to award the per diem grants to non-profit organizations meeting some but not all of the criteria for the receipt of such payments.

TITLE VIII—NONPROFIT RESEARCH AND EDUCATION CORPORATIONS

General Authorities on Establishment of Corporations (section 801)

H.R. 2770 contains a provision (section 2) that would authorize Nonprofit Research and Education Corporations (NPCs) to merge, thereby creating multi-medical center research corporations.

The Senate bill contains the same provision (section 801).

The Compromise Agreement contains this provision.

Clarification of Purposes of Corporations (section 802)

H.R. 2770 contains a provision (section 3) that would clarify the purpose of NPCs to include specific reference to their role as funding mechanisms for approved research and education, in addition to their role in facilitating research and education.

The Senate bill contains the same provision (section 802).

The Compromise Agreement contains this provision.

Modification of Requirements for Boards of Directors of Corporations (section 803)

The Senate bill contains a provision (section 803) that would require that a minimum of two members of the Board of Directors of an NPC be other-than-federal employees. Additionally, the provision would allow for the appointment of individuals with expertise in legal, financial, or business matters. The provision also would conform the law relating to NPCs to other federal conflict of interest regulations by removing the requirement that members of the NPC boards have no financial relationship with any entity that is a source of funding for research or education by VA.

H.R. 2770 contains a comparable provision (section 4), but provides that the executive director of the corporation may be a VA employee.

The Compromise Agreement contains the House provision, with a modification which removes the provision allowing VA employees to serve as executive directors.

Clarification of Powers of Corporations (section 804)

H.R. 2770 contains a provision (section 5) that would clarify the NPCs' authority to accept, administer, and transfer funds for various purposes. NPCs would be allowed to enter into contracts and set fees for the education and training facilitated through the corporation.

The Senate bill contains the same provision (section 804).

The Compromise Agreement contains this provision.

Redesignation of Section 7364A of Title 38, United States Code (section 805)

H.R. 2770 contains a provision (section 6) that would provide clerical amendments associated with implementing this legislation concerning Nonprofit Research and Education Corporations.

The Senate bill contains the same provision (section 805).

The Compromise Agreement contains this provision.

Improved Accountability and Oversight of Corporations (section 806)

The Senate bill contains a provision (section 806) that would strengthen VA's oversight of NPCs by requiring those NPCs with revenues of over $10,000 to obtain an independent audit once every three years, or with revenues of over $300,000 to obtain such an audit each year, and to submit certain Internal Revenue Service forms.

H.R. 2770 contains a comparable provision (section 7), but would instead raise to $100,000 the threshold for requiring three-year audits and to $500,000 the revenue threshold that would require yearly audits. The provision also would revise conflict of interest policies to apply to the policies adopted by the corporation.

The Compromise Agreement contains the House provision.

TITLE IX—CONSTRUCTION AND NAMING MATTERS

Authorization of Medical Facility Projects (section 901)

The Senate bill contains a provision (section 901) that would authorize funds for the following major medical facility projects in FY 2010: Livermore, California; Walla Walla, Washington; Louisville, Kentucky; Dallas, Texas; St. Louis, Missouri; Denver, Colorado and Bay Pines, Florida.

There was no comparable House provision.

The Compromise Agreement contains the Senate provision, but strikes the authorization for the construction project in Walla Walla, Washington, since authorization for this construction project was provided in Public Law 111–98, enacted on November 11, 2009.

Designation of Merrill Lundman Department of Veterans Affairs Outpatient Clinic, Havre, Montana (section 902)

The Senate bill contains a provision (section 903) that would name VA outpatient clinic in Havre, Montana, as the ''Merrill Lundman Department of Veterans Affairs Outpatient Clinic.''

There was no comparable House provision.

The Compromise Agreement contains the Senate provision.

Designation of William C. Tallent Department of Veterans Affairs Outpatient Clinic, Knoxville, Tennessee (section 903)

In the House, H.R. 402 contains a provision that would name the VA outpatient clinic in Knoxville, Tennessee as the ''William C. Tallent Department of Veterans Affairs Outpatient Clinic.''

The Senate bill contains no comparable provision.

The Compromise Agreement contains the House provision.

Designation of Max J. Beilke Department of Veterans Affairs Outpatient Clinic, Alexandria, Minnesota (section 904)

In the House, H.R. 3157 contains a provision that would name the VA outpatient clinic in Alexandria, Minnesota as the ''Max J. Beilke Department of Veterans Affairs Outpatient Clinic.''

The Senate bill contains no comparable provision.

The Compromise Agreement contains the House provision.

TITLE X—OTHER MATTERS

Expansion of Authority for Department of Veterans Affairs Police Officers (section 1001)

The Senate bill contains a provision (section 1001) that would provide additional authorities to VA uniformed police officers, including the authority to carry a VA-issued weapon in an official capacity when off VA property and in official travel status, the authority to conduct investigations on and off VA property of offenses that may have been committed on VA property, expanded authority to enforce local and State traffic regulations when such authority has been granted by local or State law, and to make arrests based upon an arrest warrant issued by any competent judicial authority.

There was no comparable House provision.

The Compromise Agreement contains the Senate provision.

Uniform Allowance for Department of Veterans Affairs Police Officers (section 1002)

The Senate bill contains a provision (section 1002) that would modify VA's authority to pay an allowance to VA police officers for purchasing uniforms. The provision would provide a uniform allowance in an amount which is the lesser of the amount prescribed by the Office of Personnel Management or the actual or estimated cost as determined by periodic surveys conducted by VA.

There was no comparable House provision.

The Compromise Agreement contains the Senate provision.

Submission of Reports to Congress by Secretary of Veterans Affairs in Electronic Form (section 1003)

Under current law, there is no requirement for VA to submit Congressionally mandated reports in an electronic form.

Neither the House nor Senate bills contained a provision to change this procedure.

The Compromise Agreement contains a provision which would create a new section 118 in title 38, United States Code, which would require VA to submit reports to Congress, or any Committee thereof, in electronic format. Reports would be defined to include any certification, notification, or other communication in writing.

Determination of Budgetary Effects for Purposes of Compliance with Statutory Pay-As-You-Go-Act of 2010 (section 1004)

Neither the Senate nor House bills contain a provision relating to compliance with the Statutory Pay-As-You-Go-Act of 2010, Title I of P.L. 111–139, 124 Stat. 8.

The Compromise Agreement contains a procedural provision to require the determination of the budgetary effects of provisions contained in the Compromise Agreement to be based upon the statement jointly entered into the Congressional Record by the Chairmen of the Committees on the Budget of the Senate and the House of Representatives.

Mr. COBURN. Madam President, our Nation has been at war for nearly a decade now in Afghanistan and nearly as long in Iraq and we owe a huge debt of gratitude to the men and women who have fought on the front lines as well as to their families who have sacrificed so much.

The Senate is considering S. 1963, the Caregivers and Veterans Omnibus Health Services Act of 2009. While I will support its passage, I believe this legislation represents a significant failure of Congress to uphold the responsibility entrusted to us by the citizens of this Nation and our obligation to military families and taxpayers.

While there will be self-congratulating press releases from Members of Congress and some Veteran Service Organization lauding the bill's passage, I believe the shortcomings of this legislation—discriminating against most veterans and adding billions of dollars to our national debt—represent a failure of leadership and lack of responsibility.

I had hoped that the House of Representatives would make some significant improvements to the legislation over the Senate. Sadly, they did not.

The legislation that the Senate will consider still unfairly discriminates against severely disabled veterans from wars and combat prior to September 11, 2001.

Many of these brave men and women have needed the assistance of caregivers for decades and have done so without help from the Department of Veterans Affairs. Many of these veterans were not the beneficiary of recent advancements in military medical care. The caregivers of these veterans will be left out of this benefits package.

There are currently 35,000 veterans receiving aid and attendance benefits from the Department of Veterans Affairs, which is approximately the number of veterans in need of caregiver assistance. Out of this population, around 2,000 veterans received their injuries after September 11 and would qualify for extra caregiver assistance in this bill.

Caregivers for almost 95 percent of severely disabled veterans from combat would not receive the level of caregiver assistance afforded to those veterans who were injured after September 11, 2001. When I offered an amendment that would provide equivalent caregiver benefits for all severely disabled veterans of all wars, the Senate summarily rejected that idea.

Unfortunately the House of Representatives also ignored the danger that our massive debt poses to our Nation and did not eliminate or reduce any current programs in the Federal budget to pay for this legislation. The bill is not paid for by trimming any wasteful, duplicative, obsolete, or lower priority Federal programs.

The Congressional Budget Office estimates that the bill will cost $3.6 billion over 5 years, which is slightly less than the version the Senate passed. The Senate also rejected my attempt to pay for this legislation out of the fraud, waste, and abuse of taxpayer dollars that we send each year to the United Nations.

Instead the Congress has decided, as it always does, to pass the debt onto our children and grandchildren, rather than bear the cost and sacrifice today as our veterans have done.

I fear that if we do not start paying for new spending then the sacrifice made by our veterans for future generations will have been in vain. At some point, the debt we are incurring today must be paid for and when that day comes, the promises we are making to veterans, caregivers, and others will no longer be affordable because Congress refused to be responsible by being fiscally responsible by trimming lower priority spending.

When the Senate first considered this legislation last fall, some of the proponents of the Caregivers and Veterans Omnibus Health Services Act attempted to rebut my facts about our

growing national debt by saying that the bill does not actually appropriate any money for these programs.

In a technical sense, they are correct. I suspect that these same proponents will issue statements celebrating its passage, which will disappoint any caregiver of a disabled veteran expecting the promised assistance soon.

No caregiver will be helped unless the appropriations committee allocates the funding for this new program authorized in this bill.

Until then, this bill is an empty promise to veterans and benefits no one except perhaps the career politicians who will claim credit for doing something to help veterans without really having to make any difficult choices.

We owe an enormous sacrifice to our veterans who fought and died in our defense. This debt, which was incurred on a battlefield far from home, should be borne by this generation so that we ensure that the future they fought to secure for our children and grandchildren is not threatened by our own fiscal irresponsibility and shortsightedness.

Congress has once again failed taxpayers, veterans, and their families today.

Mr. DORGAN. I ask unanimous consent the Senate concur in the House amendment; that the motion to reconsider be laid upon the table with no intervening action or debate, and any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

TEMPORARY EXTENSION OF SMALL BUSINESS PROGRAMS

Mr. DORGAN. Madam President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 3253, introduced earlier today.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 3253) to provide for additional temporary extension of programs under the Small Business Act and the Small Business Investment Act of 1958, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. DORGAN. I ask unanimous consent the bill be read three times and passed, the motion to reconsider be laid upon the table, with no intervening action or debate, and any statements be printed in the RECORD as if read.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 3253) was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 3253

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ADDITIONAL TEMPORARY EXTENSION OF AUTHORIZATION OF PROGRAMS UNDER THE SMALL BUSINESS ACT AND THE SMALL BUSINESS INVESTMENT ACT OF 1958.

(a) IN GENERAL.—Section 1 of the Act entitled ''An Act to extend temporarily certain authorities of the Small Business Administration'', approved October 10, 2006 (Public Law 109–316; 120 Stat. 1742), as most recently amended by section 1 of Public Law 111–136 (124 Stat. 6), is amended by striking ''April 30, 2010'' each place it appears and inserting ''July 31, 2010''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on April 29, 2010.

NATIONAL ADOPT A LIBRARY DAY

Mr. DORGAN. Madam President, I ask unanimous consent the Senate proceed to the immediate consideration of S. Res. 496, submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A bill (S. Res. 496) designating April 23, 2010, as ''National Adopt A Library Day.''

There being no objection, the Senate proceeded to consider the resolution.

Mr. DORGAN. I ask unanimous consent the resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table with no intervening action or debate, and any statements be printed in the RECORD as if read.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 496) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 496

Whereas libraries are an essential part of the communities and the national system of education in the United States;

Whereas the people of the United States benefit significantly from libraries that serve as an open place for people of all ages and backgrounds to make use of books and other resources that offer pathways to learning, self-discovery, and the pursuit of knowledge;

Whereas the libraries of the United States depend on the generous donations and support of individuals and groups to ensure that people who are unable to purchase books still have access to a wide variety of resources;

Whereas certain nonprofit organizations facilitate the donation of books to schools and libraries across the United States—

(1) to extend the joys of reading to millions of people of the United States; and

(2) to prevent used books from being thrown away;

Whereas, as of the date of agreement to this resolution, the libraries of the United States have provided valuable resources to individuals affected by the economic crisis by encouraging continued education and job training; and

Whereas several States that recognize the importance of libraries and reading have adopted resolutions commemorating April 23 as ''Adopt A Library Day'': Now, therefore, be it

Resolved, That the Senate—

(1) designates April 23, 2010, as ''National Adopt A Library Day'';

(2) honors the organizations that facilitate donations to schools and libraries;

(3) urges all people of the United States who own unused books to donate the unused books to local libraries;

(4) strongly supports children and families who take advantage of the resources provided by schools and libraries; and

(5) encourages the people of the United States to observe the day with appropriate ceremonies and activities.

NATIONAL SHAKEN BABY SYNDROME AWARENESS WEEK

Mr. DORGAN. Madam President, I ask unanimous consent the Senate proceed to the immediate consideration of S. Res. 497, submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 497) designating the third week of April, 2010 as ''National Shaken Baby Syndrome Awareness Week.''

There being no objection, the Senate proceeded to consider the resolution.

Mr. DORGAN. I ask unanimous consent the resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table, with no intervening action or debate, and any statements be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 497) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 497

Whereas the month of April has been designated ''National Child Abuse Prevention Month'' as an annual tradition initiated in 1979 by President Jimmy Carter;

Whereas the National Child Abuse and Neglect Data System reports that 772,000 children were victims of abuse and neglect in the United States in 2008, causing unspeakable pain and suffering for our most vulnerable citizens;

Whereas approximately 95,000 of those children were younger than 1 year old;

Whereas more than 4 children die each day in the United States as a result of abuse or neglect;

Whereas children younger than 1 year old accounted for over 40 percent of all child abuse and neglect fatalities in 2008, and children younger than 4 years old accounted for nearly 80 percent of all child abuse and neglect fatalities in 2008;

Whereas abusive head trauma, including the trauma known as Shaken Baby Syndrome, is recognized as the leading cause of death among physically abused children;

Whereas Shaken Baby Syndrome can result in loss of vision, brain damage, paralysis, seizures, or death;

Whereas medical professionals believe that thousands of additional cases of Shaken Baby Syndrome and other forms of abusive head trauma are being misdiagnosed or left undetected;

Whereas Shaken Baby Syndrome often results in permanent and irreparable brain damage or death of the infant and may result in extraordinary costs for medical care

during the first few years of the life of the child;

Whereas the most effective solution for preventing Shaken Baby Syndrome is to prevent the abuse, and it is clear that the minimal costs of education and prevention programs may avert enormous medical and disability costs and immeasurable amounts of grief for many families;

Whereas prevention programs have demonstrated that educating new parents about the danger of shaking young children and how to protect their children from injury can significantly reduce the number of cases of Shaken Baby Syndrome;

Whereas education programs raise awareness and provide critically important information about Shaken Baby Syndrome to parents, caregivers, childcare providers, child protection employees, law enforcement personnel, health care professionals, and legal representatives;

Whereas National Shaken Baby Syndrome Awareness Week and efforts to prevent child abuse, including Shaken Baby Syndrome, are supported by groups across the United States, including groups formed by parents and relatives of children who have been injured or killed by shaking, whose mission is to educate the general public and professionals about Shaken Baby Syndrome and to increase support for victims and their families within the health care and criminal justice systems;

Whereas 20 States have enacted legislation related to preventing and increasing awareness of Shaken Baby Syndrome;

Whereas the Senate has designated the third week of April as ''National Shaken Baby Syndrome Awareness Week'' each year since 2005; and

Whereas the Senate strongly supports efforts to protect children from abuse and neglect: Now, therefore, be it

Resolved, That the Senate—

(1) designates the third week of April 2010 as ''National Shaken Baby Syndrome Awareness Week'';

(2) commends hospitals, childcare councils, schools, community groups, and other organizations that are—

(A) working to increase awareness of the danger of shaking young children;

(B) educating parents and caregivers on how they can help protect children from injuries caused by abusive shaking; and

(C) helping families cope effectively with the challenges of child-rearing and other stresses in their lives; and

(3) encourages the people of the United States—

(A) to remember the victims of Shaken Baby Syndrome; and

(B) to participate in educational programs to help prevent Shaken Baby Syndrome.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. DORGAN. Madam President, I ask unanimous consent that the Senate proceed to executive session to consider en bloc Calendar Nos. 790, 791, 792, and 793; that the nominations be confirmed en bloc; the motions to reconsider be laid upon the table en bloc; that no further motions be in order; that any statements related to the nominations be printed in the RECORD; and that the President be immediately notified of the Senate's action.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

IN THE COAST GUARD

The following named individual for appointment as Commandant of the United States Coast Guard and to the grade indicated under title 14, U.S.C., Section 44:

To be admiral

Vice Adm. Robert J. Papp, Jr.

The following named officer for appointment as Vice Commandant of the United States Coast Guard and to the grade indicated under title 14, U.S.C., Section 47:

To be vice admiral

Rear Adm. Sally Brice-O'Hara

The following named officer for appointment as Commander, Pacific Area of the United States Coast Guard and to the grade indicated under title 14, U.S.C., section 50:

To be vice admiral

Rear Adm. Manson K. Brown

The following named officer for appointment as Commander, Atlantic Area of the United States Coast Guard and to the grade indicated under title 14, U.S.C., section 50:

To be vice admiral

Rear Adm. Robert C. Parker

LEGISLATIVE SESSION

Mr. DORGAN. I ask unanimous consent that the Senate resume legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

APPOINTMENTS

The PRESIDING OFFICER. The Chair, on behalf of the majority leader, pursuant to Public Law 111–148, appoints the following individuals to serve as members of the Commission on Key National Indicators: Dr. Ikram Khan of Nevada (for a term of 3 years) and Dr. Dean Ornish of California (for a term of 2 years).

MORNING BUSINESS

Mr. DORGAN. I ask unanimous consent that the Senate proceed to a period of morning business, with Senators permitted to speak therein for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DORGAN. Let me ask, if I might, I know Senator MURRAY and Senator SESSIONS are here. I do not know in what order they would want to go, and I believe about 10 minutes each or so.

I ask unanimous consent that Senator SESSIONS be recognized, followed by Senator MURRAY, and I be recognized following the presentation of Senator MURRAY.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Alabama.

FINANCIAL REGULATORY REFORM

Mr. SESSIONS. Madam President, we are talking about financial reform. There is a lot of attention and a lot of the Members of the Senate are trying to keep up with it and trying to make sure we create a reform package that effectively deals with corporations that have so mismanaged their business that they need to be dissolved or broken up or liquidated, as is normally the case when a company in America cannot pay its bills.

This happens every day for smaller companies. It becomes a bit more complicated, sometimes a great deal more complicated, when the corporations get bigger and bigger and bigger. The way our corporations are normally dissolved, if they are financially insolvent and cannot operate, has always been bankruptcy court.

There are bankruptcy judges all over America. It is a Federal court system. Bankruptcy is referred to in the U.S. Constitution. It has worked very well. I guess what I am concerned about is, some of the provisions that are in the proposed legislation that is floating about would alter that traditional idea in ways that may be unwise.

Senator LEAHY, the chairman of the Judiciary Committee, I am the ranking Republican on that committee, and I have talked about this a little bit. It is getting to a point where we need to figure out what is happening here. The matter is highlighted by a letter from the Judicial Conference of the United States—Mr. James Duff, the Presiding Secretary, of the Judicial Conference of the United States. Chairman LEAHY asked them their opinions on some of the proposals for dissolution of companies, the orderly liquidation of companies.

The Judicial Conference responded in a letter that was received by Senator LEAHY, and I do believe it raises important questions. I truly do. I am a person who spent a lot of time practicing law, both as U.S. attorney and in private practice in Federal court, and have some appreciation for how bankruptcy courts operate. I would say, we ought to pay attention to what the Judicial Conference says to us. It is a kind of correspondence they take seriously. They do not lightly send off letters to the Senate. This was in response to a question. So this is what Mr. Duff replies on behalf of the Judicial Conference, in reply to Senator LEAHY:

As you noted, Title II would create an ''Orderly Liquidation Authority Panel'' within the Bankruptcy Court for the District of Delaware for the limited purpose of ruling on petitions from the Secretary of the Treasury for authorization to appoint the Federal Deposit Insurance Corporation (FDIC) as the receiver for a failed financial firm.

Then it goes on to say:

This is a substantial change to the bankruptcy law because it would create a new structure within the bankruptcy courts and remove a class of cases from the jurisdiction of the Bankruptcy Code. The legislation, by assigning to the FDIC the responsibility for resolving the affairs of an insolvent firm, appears to provide a substitute for a bankruptcy proceeding.

You see, when people loan money to a corporation, people buy stock in a

corporation, they buy bonds of a corporation or otherwise loan them money, they have an expectation that if that company fails to prosper and pay what they owe, that company at least will be hauled into bankruptcy court and they will have an opportunity to present their claims and to receive whatever fair proportion of the money that is still left in the company as their payment.

It may be 10 cents on a dollar, it may be 90 cents on a dollar or whatever you get. They understand that bankruptcy judges have the authority to try to allow the company to continue to operate, to stay or stop people from filing lawsuits against the company and collecting debts, to allow the company a while to see if they cannot pay off more debtors by continuing to operate than shutting them down.

But if they see the company is so badly in financial crisis that it is going to collapse anyway, they come in and shut it down before they can rip off more people. So that is what bankruptcy courts do every day. So this letter indicates that by assigning the FDIC responsibility for resolving these affairs, it provides a substitute for bankruptcy, which is denying the lawful expectations of people who loan money to or bought stock in these corporations.

They go on to say:

We note, however, that the legislation will result in the transition of at least some bankruptcy cases to FDIC receivership in situations where a firm is already in bankruptcy, either voluntarily or involuntarily.

In other words, it appears that legislation would allow a case to be taken out of bankruptcy that was already in the bankruptcy court.

It goes on to say:

The legislation does not envision objection, participation, or input from the bankruptcy creditors (whose rights will be affected) in the course of appointing the FDIC as receiver. Indeed, the legislation deals in a sealed manner; [secret manner, apparently] only the Secretary and the affected financial firm would be noticed and given the opportunity of a hearing.

That will have major impacts on a stockholder or bondholder or a creditor of a corporation. The FDIC is going to meet with this big company, this big bank, and work out a deal and not even tell the people who loaned the corporation money in good faith and have certain legal rights, at least they always had previously. These rights, somehow, will be extinguished or cut off.

It goes on to say:

The financial position of affected creditors may have been changed within the context of the firm's bankruptcy case in such a way that the creditors' rights might have changed dramatically. Any resulting due process challenges would impose significant burdens on the courts to resolve novel issues for which the bill provides no guidance.

They go on to say:

In addition, we note that petitions under this title involving financial firms would be filed in a single judicial district. The Judicial Conference favors distribution of cases to ensure that court facilities are readily accessible to litigants and other participants in the judicial process.

Under the current proposal all of these cases are going to be tried in Delaware. I do not know if we have enough judges in Delaware.

They go on to say this:

With respect to the limited review [that means appellate] to be conducted by the panel created in section 202, [of the proposed legislation] we note that the authority may exceed what is constitutionally permitted to a non-Article III entity.

What does that mean? That means some of these powers are judicial powers given only to Federal district courts presided over by senatorially confirmed, presidentially-appointed, lifetime Federal judges. We can't just give them off to somebody else to decide. It is just not constitutional. We don't have the powers in the Congress, or the President doesn't have the powers to take over judicial roles.

They continue:

A previous statute was held unconstitutional because it conferred on the bankruptcy courts the authority to decide matters reserved for Article III courts.

It goes on to talk about that.

Let me tell my colleagues what CEOs don't like. Do we want to be tough on CEOs? I will give some suggestions.

If they can't run their companies and they can't pay their bondholders, can't pay their debtors, their stock has become worthless. People invested in their companies believing they were legitimate, believing the representations of their financial condition, and it turned out to be false. They do not want to be in a court where they raise their hands and have to give testimony under oath. They don't want to be in that position.

The way the law has been thought of and is worked out to handle these cases is to have a Federal bankruptcy judge preside over this process. There are bankruptcy rules about what the judge can and cannot do. Each entity that has an interest in the matter can have lawyers. The stockholders can have lawyers. The bondholders can have lawyers. The creditors can have lawyers. The workers can have lawyers. The employees can have lawyers. The guys have to come in under oath. They have to bring their financial statements. If they lie, they go to jail for perjury. This is a powerful thing. A lot of these big wheels don't want to subject themselves to it. I would say, if we want to be tough on these companies, don't create some FDIC buddy group that has been supervising them and sees their role as trying to work with them. Have a real judge.

We can create a system where we select experienced judges, create some special procedures for larger bankruptcy cases. We should consider that.

My one comment before I wrap up is, we should listen to the Judicial Conference and recognize there is a danger to the rule of law to legitimate expectations of creditors and stockholders by this new change, this unexpected change in the law. We should allow classical procedures to work. If we need to improve them and make some special provisions for dissolution of corporations to help bankruptcy judges do the job better, I would certainly favor that. That would allow us to function in a lawful way, a principled way, and not allow people to meet in private and secret, as we have seen happened recently, and dissolve their cases in a matter that is not open and free to the entire public, as would happen in bankruptcy court.

I ask unanimous consent to have printed in the RECORD the letter from the Judicial Conference.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

JUDICIAL CONFERENCE
OF THE UNITED STATES,
Washington, DC, April 12, 2010.

Hon. PATRICK J. LEAHY,
Chairman, Committee on the Judiciary, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: I am writing in response to your letter of March 25, 2010, seeking the views of the Judiciary with regard to provisions relating to bankruptcy that are contained in the financial regulation bill recently approved by the Senate Committee on Banking, Housing, and Urban Affairs. We appreciate your soliciting the views of the courts on this matter. You identified several of the issues that are of concern to the courts, and I will address each of those.

As you noted, Title II would create an ''Orderly Liquidation Authority Panel'' within the Bankruptcy Court for the District of Delaware for the limited purpose of ruling on petitions from the Secretary of the Treasury for authorization to appoint the Federal Deposit Insurance Corporation (FDIC) as the receiver for a failing financial firm. This is a substantial change to bankruptcy law because it would create a new structure within the bankruptcy courts and remove a class of cases from the jurisdiction of the Bankruptcy Code. The legislation, by assigning to the FDIC the responsibility for resolving the affairs of an insolvent firm, appears to provide a substitute for a bankruptcy proceeding. The Judicial Conference has not adopted a position with regard to the removal from bankruptcy court jurisdiction of the class of financial firms identified in this legislation.

We note, however, that the legislation will result in the transition of at least some bankruptcy cases to FDIC receivership in situations where a firm is already in bankruptcy, either voluntarily or involuntarily. Section 203(c)(4)(A) provides that a pending bankruptcy case would be evidence of a firm's financial status for purposes of triggering the Treasury Secretary's authority to seek to appoint the FDIC as receiver. The bill does not specify how the transition from a bankruptcy proceeding to an administrative proceeding would be effected. Further, the bill does not specify the effect of the transfer on prior rulings of the court. For example, would any stays or other rulings continue in effect or be dissolved upon the transfer to the FDIC? This could be especially problematic if creditors have changed position based upon rulings in the course of the bankruptcy proceeding. The legislation does not envision objection, participation, or input from the bankruptcy creditors (whose rights will be affected) in the course of appointing the FDIC as receiver. Indeed, the legislation proposes to deal with this petition in a sealed manner; only the Secretary

and the affected financial firm would be noticed and given the opportunity of a hearing. The financial position of affected creditors may have been changed within the context of the firm's bankruptcy case in such a way that the creditors' rights might have changed dramatically. Any resulting due process challenges would impose a significant burden on the courts to resolve novel issues, for which the bill provides no guidance.

In addition, we note that petitions under this title involving financial firms would be filed in a single judicial district. The Judicial Conference favors distribution of cases to ensure that court facilities are reasonably accessible to litigants and other participants in the judicial process. Although we are aware that a large number of companies are incorporated in Delaware, it is not clear that Delaware would necessarily be a convenient location for many of the affected companies, nor indeed the proper venue for that petition, absent changes to title 28, United States Code.

We also note that the legislation requires the designation of more bankruptcy judges for the panel than are permanently authorized for Delaware under existing law. The District of Delaware is authorized one permanent bankruptcy judge and five temporary judgeships. If Congress were to choose not to extend these judgeships or convert them to permanent status, it would be impossible to implement section 202's requirement to appoint three judges to the Orderly Liquidation Authority Panel from the District of Delaware.

With respect to the limited review to be conducted by the panel created in section 202, we note that the authority may exceed what is constitutionally permitted to a non-Article III entity. A previous statute was held unconstitutional because it conferred on the bankruptcy courts the authority to decide matters that are reserved for Article III courts. Northern Pipeline Const. Co. v. Marathon Pipe Line Co., 458 U.S. 50 (1982). The review of the Secretary's decision in this instance appears to resemble more closely appeals of agency decisions under the Administrative Procedure Act than a bankruptcy petition and, therefore, appears more appropriate for an Article III court. Moreover, the affirmation of the Secretary's petition to designate the Federal Deposit Insurance Corporation as a receiver effectively removes a case from the application of bankruptcy law. Accordingly, it seems anomalous to subject this petition to review by a bankruptcy court.

Your letter particularly questioned whether the time limit of 24 hours for a decision by the panel would be sufficient or realistic. The Judicial Conference has consistently opposed the imposition of time limits for judicial decisions beyond those already set forth in the Speedy Trial Act or section 1657 of title 28. We appreciate that a matter affecting the operation of the national economy warrants a prompt resolution. We note that the courts, recognizing this concern, have already demonstrated an ability to move swiftly in resolving bankruptcy petitions involving large corporations with broad impact on the national economy. In each of these instances, the initial determinations were made by a single judge. The resulting appeals in some cases were also adjudicated on an expedited basis without a statutory requirement to do so.

Requiring a panel of three judges to assemble, conduct a hearing, and craft a written opinion within 24 hours presents practical difficulties that may be insurmountable. Although §202(b)(1)(A)(iii) could be read to limit the court's review to the question of whether the covered financial company is in default or danger of default, the Secretary is required to submit to the panel ''all relevant findings and the recommendation made pursuant to section 203(a),'' which specifies consideration of multiple factors (repeated in subsection (b) of that section as the basis for the Secretary's petition). Even with the full cooperation of the financial firm affected by the proceeding, which is not a predicate for the consideration of a petition, it would appear difficult to hear and consider the evidence and prepare a well-reasoned opinion addressing each reason supporting the decision of the panel within 24 hours. Even assuming that factors other than the solvency of the firm would be excluded from this special panel's review, it may well be that the subject financial firm or one of its creditors would seek judicial review of one of the prior administrative evaluations of the statutory factors, either in the course of the hearing conducted by the Orderly Liquidation Authority Panel or in another court. Such challenges would also make it difficult to meet the proposed timeline. It is possible that the facts of a particular case may be so clear that a decision could be rendered within 24 hours, but the statutory requirement of such speed seems inconsistent with the thoughtful deliberation that would be appropriate for a decision of such great significance.

Although it is to be hoped that only a small number of large financial firms would ever become subject to this legislation, each of the petitions would involve large volumes of evidence regarding complex financial arrangements. Thus, the legislation could result in a large proportion of the judicial resources of a single bankruptcy court being devoted exclusively to review of the Secretary's petitions. Further, the bill provides that the Secretary may re-file a petition to correct deficiencies in response to an initial decision, thus extending the time in which the court's resources would be diverted from other judicial business. The District of Delaware is one of the busiest bankruptcy courts in the nation; to draw the court's limited judicial resources away from the fair and timely adjudication of those bankruptcy cases to process petitions under this bill would be inequitable and unjust to the debtors and creditors in those pending cases. If, as seems possible given recent economic developments, the failure of one firm weakens other firms in the financial services sector, the demand could exceed the court's resources. This consideration alone counsels against the assignment of all such cases to a single court.

Finally, we note that both the Administrative Office of the United States Courts (AO) and the Government Accountability Office (GAO) are directed to conduct studies which will evaluate: (i) the effectiveness of Chapter 7 or Chapter 11 of the Bankruptcy Code in facilitating the orderly liquidation or reorganization of financial companies; (ii) ways to maximize the efficiency and effectiveness of the Panel; and (iii) ways to make the orderly liquidation process under the Bankruptcy Code for financial companies more effective.

With respect to those firms that are to be treated under Chapters 7 and 11 of the Bankruptcy Code, the vagueness of, and/or lack of criteria for determining ''effectiveness'' will hamper the ability of the AO and GAO to produce meaningful reports. Some would regard rapid payment of even small portions of claims as an effective resolution, while others would prefer a delayed payment of a greater share of a claim. There would also be significant disagreements between creditors holding different types of secured or unsecured claims as to the most effective resolution of an insolvent firm. Some would argue that effectiveness should be measured by the impact of the resolution on the larger economy, regardless of the impact on the creditors of the particular firm. Without clearer guidance for the studies, both agencies will be required repeatedly to expend resources on the development of reports that may not provide the information Congress is seeking.

Thank you for seeking the views of the Judiciary regarding this legislation and for your consideration of them. If we may be of assistance to you in this or any other matter, please do not hesitate to contact our Office of Legislative Affairs at (202) 502–1700.

Sincerely,

JAMES C. DUFF,
Secretary.

Mr. SESSIONS. I yield the floor.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. As we prepare to consider legislation that includes some of the strongest reforms of Wall Street ever, it is important that we not lose sight of exactly what is on the line for the American people; that we will not allow complicated financial products and terminology to distract from the fact that this is a debate about fairness, about family finances, and protecting against another economic collapse; that we remember for Wall Street lobbyists, this may be complex, but for the American people it is pretty simple. For them this is a debate about whether they can walk into a bank and sign up for a mortgage or apply for a credit card or start a retirement plan.

Are the rules on their side when they do that, or are they with the big banks on Wall Street? For far too long, the financial rules of the road have favored big banks and credit card companies and Wall Street. For far too long they have abused those rules. Whether it was gambling with the money in our pension funds or making bets they could not cover or peddling mortgages to people they knew could never pay, Wall Street made expensive choices that came at the expense of working families. Wall Street used its ''anything goes'' rules to create a situation where everybody else paid, and Wall Street created a system that put their own short-term profits before the long-term interests of this country.

The simple truth is, it is time to end this system that puts Wall Street before Main Street. It is time to put families back in control of their own finances. It is time to focus on making sure the rules protect those sitting around the dinner table, not those sitting around the board room table. To do that, we have to pass strong Wall Street reform that cannot be ignored. Those reforms, I believe, have to include three core principles: a strong, independent consumer protection agency; an end to taxpayer bailouts; and tools to ensure that Americans have the financial know-how that empowers them to make smart choices about their own finances and helps them avoid making the same poor decisions that helped create this crisis.

First and foremost, Wall Street needs a watchdog. Right now what we have is a patchwork of Federal agencies, none of which are tasked with focusing solely on consumer protection. What we

have is confusion and duplication and an abdication of responsibility. What we have, quite simply, is not working. What we need is a single, strong, independent agency, a cop on the beat whose sole function is to protect consumers, a cop on the street who will expose big bank ripoffs and end unfair fees and curb out-of-control credit card and mortgage rates. We need a cop on the street that ensures when one makes important financial decisions, the terms are clear. The risks are laid out on the table, and the banks and other financial companies offering them are being upfront. What we need is one agency with one mission looking out for one group of people, and that is American families.

Secondly, Wall Street reform must spell an end to the taxpayer-financed bailout. There is nothing that makes me or my constituents in Washington State angrier than the fact that Wall Street ran up this huge bill, and we had to pick up the tab. Wall Street reform has to end that once and for all. It has to be a death sentence for banks that engage in reckless practices, and it must make them pay for their funeral arrangements, if they do.

Third, reform has to address the fact that Wall Street is not alone in deserving blame for this crisis. Therefore, it must not be the only target of reform. We cannot ignore the fact that millions of Americans walked into sometimes predatory home loan agencies all across the country, unprepared to make big, important financial decisions. We have to acknowledge that too many Americans put too little thought into signing on the dotted line. Those bad decisions had a huge impact. That is why I have been working so hard to pass a bill I introduced called the Financial and Economic Literacy Improvement Act.

That legislation would change the way we approach educating Americans about managing their own finances and making good decisions about housing and employment and retirement. We add a fourth R to the basics of reading and writing and arithmetic. That is resource management. It gives Americans, young and old, the basic financial skills to heed warnings in the fine print they are signing and avoid mounting debt. I believe if we are going to avoid many of the mistakes that led to this crisis, we need a similar component in the bill we work on next week.

We all know the old adage that sunlight is the best disinfectant. With all of the reforms I have been talking about today, we have the potential to bring a whole lot of sunlight to Wall Street. But as we have seen in the lead up to this crisis and with Wall Street's response now to our reform effort so far, they don't like to do their work in the sunlight. They like to do it in back rooms. I have heard they have had some company recently in those back rooms. I have heard that over the last several days, some of our colleagues on the other side have been huddling with Wall Street lobbyists to figure out how they can kill this bill that is coming to us. They want to figure out how they can preserve the status quo and what they have today. They want to talk their way out of change. They have been calling out to special interests in Washington and bankers back on Wall Street and big money donors. In fact, just about everyone has been invited to those meetings except, of course, the American people. That is because the vast majority of Americans, including the hard-working families in my State who were hurt by this crisis through no fault of their own, want to see the strong Wall Street reforms I have talked about today passed. They want to hold Wall Street accountable for years of irresponsibility and taxpayer-funded bailouts. And more than anything, they want to make sure we never go through this again.

There is still a widely held view on Wall Street—and with too many still in DC—that the voices of the people can somehow be drowned out with big money and even bigger fabrications. Wall Street still thinks they can get away with highway robbery because, for all too long, they have. They think they can get away with telling the American people that more regulation is bad, when the absence of regulation is largely what got us into this mess.

They think people will be satisfied with watered-down rules that Wall Street can then simply step aside or go around or ignore. They think they can pull a fast one on Main Street. They are flatout wrong. I know that because I grew up literally on Main Street in Bothell, WA, working for my dad's 5-and-10-cent store with my six brothers and sisters.

I know they are wrong because Main Street is where I got my values, values such as the product of your work is what you can actually show in the till at the end of the day; that if that money was short, you dealt with the consequences. If it was more than you expected, you knew that more difficult days could lie ahead; values like a good transaction was one that was good for your business and for your customer; that personal responsibility meant owning up to your mistakes and making them right; that one business relied on all the others on the same street; and, importantly, that our customers were not prey and businesses were not predators, and an honest business was a successful one.

Those are the values I learned on Main Street growing up. Believe me, those same values are still strong for our country today. They exist in small towns such as the one in which I grew up and in big cities in every one of our States.

Next week, when we bring a strong Wall Street reform bill to the floor, everyone in the Senate is going to hear from people who still hold values like that very dear. I am sure they will tell us in no uncertain terms: It is time to end Wall Street's excesses. It is time to bring some sanity back into the system, to protect our consumers, to end bailouts and back-room deals, to restore personal responsibility and bring back accountability.

I am hopeful we will all listen because there certainly is a lot on the line for the American people. They deserve all of our support.

I yield the floor.

The PRESIDING OFFICER (Mr. BURRIS). The Senator from North Dakota is recognized.

Mr. DORGAN. Mr. President, I ask unanimous consent to speak in morning business for 20 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DORGAN. Mr. President, my colleague from the State of Washington just talked about Wall Street reform. It is such an important subject. It is the case that all of us who have lived through these last several years will understand when the history books record these years that we have lived and existed and struggled through a period that is the deepest recession since the Great Depression.

Mr. President, 15 million to 17 million people wake in the morning, now as I speak, jobless, get dressed, and go out to look for a job. Most do not find it. It has been a tough time. Yet those who read the newspaper and understand the difficulty of those who are losing homes, losing jobs, losing hope, also read the business pages and see that one of the heads of the largest investment banks last year was paid $25 million in salary. One of the folks who was one of the largest income earners in this country earned $3 billion running a hedge fund. That is $3 billion, by the way. That is almost $10 million a day.

So they see record profits from the biggest financial interests in this country—many of whom pursued policies that steered us right into the ditch. They wonder what is the deal here. The people at the top, the ones who caused most of the problem—the ones many of which would have gone broke had the Federal Government not come in with some funding to try to provide some stability—they are now at record profits, paying record bonuses. The folks at the bottom are out struggling to find a job because they have been laid off.

So it always comes back to something I have described often and it seems to never change and it is even more aggressive now. Bob Wills and His Texas Playboys, in the 1930s, had a verse in one of their songs: ''The little bee sucks the blossom, but the big bee gets the honey.'' The little guy picks the cotton, but the big guy gets the money.

So it is and so has it always been but even more aggressive now. The same newspaper talks about the trouble given the workers of this country and the families of this country by the big financial institutions having steered this country into the deepest recession since the Great Depression; even as in

the same newspaper they read about the largess, the record profits and record bonuses.

So the question is, What do we do about that? We are going to bring a financial reform bill, a Wall Street reform bill, to the floor of the Senate. I wish to talk a bit about that and say we need to review, just for a moment, the unbelievable cesspool of greed that existed—not everywhere but in some places—and at levels that steered this country into very dangerous territory.

Yes, new things, new instruments we had never heard of before: credit default swaps, naked credit default swaps. Some might say: What is a credit default swap? And, for God's sake, what is a naked credit default swap? How do you get a credit default swap naked? Well, let me take you not just to default swaps, let me take you back about a year and a half ago to a time when the futures market in oil was like a Roman candle and went up to $147 a barrel—$147 for a barrel of oil in day trading—just like a Roman candle and then went back down.

That market was broken. A bunch of speculators—they did not want to buy any oil. They have never hauled around a can or a case or a barrel of oil. They just wanted to speculate on the futures market. So they broke that market, ran it way up. Well, that is one symptom of financial systems that are broken and do not work.

Credit default swaps. We have been hearing recently about the SEC decision to file a criminal complaint against a large investment bank, Goldman Sachs. What we have discovered with the interworkings of this scheme that was created is, I think, based on my knowledge of it, that the development of—excuse me, it was a civil case by the SEC, not a criminal case, and that is an important distinction, but, nonetheless, it is a civil complaint against Goldman Sachs. My understanding is, there was created some billions of dollars of naked credit default swaps that had no insurable interest in anything of value. These were people who were betting on what might happen to the price of bonds.

Bonds selected by a person whom I have spoken about on the floor of the Senate previously over the last couple years, a man named John Paulson, who, in 2007, was the highest income earner on Wall Street—he earned $3.6 billion. That is $300 million a month or $10 million a day. How would you like to come home and your spouse says: How are you doing? How are we doing? And he says: Well, we are doing pretty good, $10 million every day.

So my understanding of the SEC complaint is they set up a system where Mr. Paulson could short what I believe were naked credit default swaps and others took the long position and you had rating agencies rating these things apparently with high ratings, until they discovered what they truly were and then the ratings collapsed. Mr. Paulson made a bunch of money and everybody else got duped out of their money.

Well, that is a short description and probably not even a very good description, but it is close enough to understand what has been going on in this country: betting—not investing—betting on credit default swaps, naked swaps that have no insurable interest in anything, no value on either side. You just put together a contract and say: I am going to bet you this issue happens, this stock goes up, this bond goes down. Let's have a wager. Well, you do not have to own anything. Let's just have a bet.

That is not an investment; that is a flatout wager. We have places where you should do that. If you want to do that, you can go to Las Vegas, and they say what goes on there stays there. Who knows. You can go to Atlantic City. We have places where you can do that. But those places are not places where you do activities that are equivalent to what we now see having been done in the middle of some of the investment banks and financial institutions in this country.

I have spoken many times on the floor about this, and I am going to repeat some things I have said just because, as I talk about what needs to be done in a couple cases on this reform bill, we need to understand what happened and how unbelievably ignorant it was.

The subprime loan scandal—everybody was involved in that. When I say ''everybody,'' I am talking about all the biggest financial institutions because they were securitizing mortgages and selling them upstream to hedge funds, investment banks, and you name it—all making huge bonus profits, all kinds of fees, and starting with the broker who could place big mortgages for people who could not afford it; and right on up the line, they were all making big money.

So here is an advertisement we all listened to in the last decade during this unbelievable carnival of greed. This was the biggest mortgage company in our country, the biggest mortgage bank in America—now bankrupt, of course, now gone—although the head of this company left with a couple hundred million dollars, I am told. So he got out pretty well-heeled, now under investigation. But here was their ad on television and radio.

It says: Do you have less than perfect credit? Do you have late mortgage payments? Have you been denied by other lenders? Call us. We want to lend you money. Unbelievable. The biggest mortgage bank in the country says: Are you a bad credit risk? Hey, call us. We have money for you.

Zoom Credit, another mortgage company. Here is their advertisement: Credit approval is just seconds away. Get on the fast track. With the speed of light, Zoom Credit will preapprove you for a car loan, a home loan, a credit card. Even if your credit is in the tank, Zoom Credit is like money in the bank. Zoom Credit specializes in credit repair and debt consolidation too. Bankruptcy, slow credit, no credit—who cares? Come to us. We want to give you a loan.

Ignorant? Sounds like it to me. Greedy? It appears to me it is.

Millennia Mortgage: 12 months with no mortgage payment. That is right. We will give you the money to make your first 12 payments if you call in the next 7 days. We pay it for you. Our loan program may reduce your current monthly payment by 50 percent, allow you no payments for the first 12 months. Let us give you a loan. You do not have to make any payments for a year.

Sound strange? It does to me. How about the mortgages that say: Do you know what, you don't want to pay any principle? No problem. You don't want to pay any interest? No problem. You pay nothing—no interest, no principle. And, by the way, if you don't want us to check on your income—that is called a no-documentation loan—we will give you a no-doc loan with no interest payments and no principle payments. We will put it all on the back side. Do you know what you should do? Go ahead and do that because you can flip that house. If you can't make the payments a couple years later, when we are going to reset your interest rate at 12 percent—or whatever ridiculous amount they were going to do—you can sell that house and make the money because the price of that house is always going to go up.

So it went all across this country, right at the bottom, with teaser rates. The result was, a whole lot of folks were talked into mortgages they could not afford. The loan folks, the brokers, who were putting out these mortgages, were making a lot of money. They were securitizing them, selling them up. There were fees being paid to everyone, and everybody was making a lot of money—very fat and happy.

By the way, it has not changed. If you go to the Internet, you can find on the Internet, today, EasyLoanForYou: Get the loan you seek. Fast. Hassle-free. Our lenders will preapprove your loan regardless of your credit score or history.

Go to the Internet. See if it has stopped.

Here is an Internet solicitation: Bad Credit Personal Loans. How about that? Is that unbelievable? I wonder what college they teach this in. You start a company called Bad Credit Personal Loans. It says: Previous bankruptcy? No credit? Previous bad credit? Recent job loss? Recent divorce? Need a larger loan amount? Well, click here now. For gosh sake, take advantage of what we are offering. If you are a bad person, we want to give you money.

Speedy Bad Credit Loans—same thing. Bad credit? No problem. No credit? No problem. Bankruptcy? No problem. Come to us.

Well, is it a surprise that a lot of greedy people and a lot of the biggest

institutions in this country whose names you recognize instantly loaded up on this nonsense? They loaded up—loaded to the gills. Why? Because they were all making massive amounts of money by buying and selling and trading these securities. Yes, not just the securities, not just securitization of loans but credit default swaps and CDOs and you name it. It was a carnival and a field day.

So that has all happened in the last 10 years—and even much worse. But let me end it there to say, we are now talking about: What do we do about all this? This kind of behavior steered the country right into the ditch. We lost $15 trillion when the economy hit rock bottom. Something like $12 trillion has been lent, spent or pledged by the Federal Government to prop up private companies—many of them that were doing exactly as I have just described. This has been a very difficult time. So the question now is, What do we do about this? Do we just decide, do you know what, it is OK? We are not going to do anything about this?

I just mentioned naked credit default swaps. I do not know the number in this country, but in England they estimate, of their credit default swaps, 80 percent of them are so-called naked; that is, they have no insurable interest on any side of the transaction. It is simply making a wager. When you have banks that make wagers just as if they are using a roulette wheel or a blackjack table or a craps table, they just as well ought to put that in the lobby, except my feeling is, it is fundamentally antithetical to everything we know about sound, thoughtful finance in this country to have allowed this to have happened—we did allow it—and now to continue to allow it to happen.

So I wish to take you back 11 years to the floor of the Senate because I have been through this before in something called financial modernization. It was 11 years ago now, actually: financial modernization. This is not the first time we have had substantial legislation on the floor of the Senate to address the issue of finances and the financial system. We had something called financial modernization on the floor of the Senate, and it was the piece of legislation—big piece of legislation—that pooled everything together. It said you can create one, big, huge holding company and bring everything in together—the investment banks, the commercial banks, FDIC-insured banks, the securities trading—bring them all together as one, big, happy family, one big pyramid. It will be just fine because it will make us more competitive with the European financial institutions, and it is going to be great. I said I think that is nuts. What are we doing?

I have some quotes from 1999 of things I said on the floor of this Senate. On November 4, I said:

Fusing together the idea of banking, which requires not just safety and soundness to be successful but the perception of safety and soundness, with other inherently risky speculative activity is, in my judgment, unwise.

I said:

We will, in 10 years time, look back and say: We should not have done that—repeal Glass-Steagall—because we forgot the lessons of the past.

I said during debate in 1999:

This bill will in my judgment raise the likelihood of future massive taxpayer bailouts. It will fuel the consolidation and mergers in the banking and financial services industry at the expense of customers, farm businesses, and others.

I said:

We have another doctrine at the Federal Reserve Board. It is called too big to fail. Remember that term, too big to fail. They cannot be allowed to fail because the consequence on the economy is catastrophic and therefore these banks are too big to fail. That is no-fault capitalism; too big to fail. Does anybody care about that? Does the Fed, the Federal Reserve Board? Apparently not.

That is what I said 11 years ago on the floor of the Senate.

I said:

I say to the people who own banks, if you want to gamble, go to Las Vegas. If you want to trade in derivatives, God bless you. Do it with your own money. Do not do it through the deposits that are guaranteed by the American people with deposit insurance.

I said during that debate:

I will bet one day somebody is going to look back and they are going to say: How on Earth could we have thought it made sense to allow the banking industry to concentrate, through merger and acquisition, to become bigger and bigger and bigger; far more firms in the category of too big to fail? How did we think that was going to help our country?

Those are quotes I made 11 years ago on the floor of this Senate. I didn't know then that within a decade, within 10 years, we would see huge taxpayer bailouts, but I thought this was fundamentally unsound public policy. I was one of only eight Senators to vote no. The whole town stampeded. In fact, as the Presiding Officer knows, this Financial Modernization Act was Gramm-Leach-Bliley, three Republicans, but this was firmly embraced by the Clinton administration and by the then-Secretary of the Treasury and others. It was bipartisan: We have to do this, have to compete with the rest of the world, and it was, Katey, bar the door. We are going to allow these big companies to get bigger, and it is going to be just great for the country.

It wasn't so great for the country. What I wish to show is what happened as a result of that piece of legislation. This graph shows from 1999 forward the growth of total assets in the largest financial institutions. Look at this graph: Bigger and bigger. Not just a bit bigger; way, way, way up, the growth in assets of those six largest financial institutions.

This chart shows the four banks, total deposits in trillions of dollars, and we see what has happened there: liabilities in the six largest institutions, deposits in the four largest banking institutions.

This chart shows the aggregate assets of the top six commercial and investment banks and what has happened in 10 years.

It doesn't take a genius and it doesn't take somebody with higher mathematics or having taken an advanced course in statistics to understand what this picture shows. We have seen a dramatic amount of concentration—some of it, by the way, aided and abetted by the Federal Government because as we ran into this problem, this very deep recession—the deepest since the Great Depression—our government arranged the marriages of some of the biggest companies, and so the big became much bigger.

I have said all of that simply to say: That is where we have been, and now the question is, Where are we going? What kind of legislation are we going to take up on the floor of the Senate? Already there has been a big dust-up. The minority leader came to the floor of the Senate and said what was done in the Banking Committee will be a big bailout of the banks. Of course, that isn't the case at all. This is a fact-free zone with respect at least to some debates. I don't think there is anybody in this Chamber who believes we don't have a responsibility now to address these issues, and address them in the right way.

Let me be quick to say a couple of things. No. 1, there are some awfully good financial institutions in this country run by some good people who have done a good job, and we need them. You can't have production without the ability to finance production. We need commercial banks. We need all of the other financial industries and institutions, but we need to make sure the excesses and the greed and the unbelievable things that were done by some in the last decade cannot be repeated, cannot happen again.

The piece of legislation that is going to come to the floor of the Senate from the Senate Banking Committee is a good piece of legislation. I commend Senator DODD. I think he has done an excellent job. By the way, those who have said in the Senate that somehow this is just partisan, they didn't reach out to others; that is not the case, and everybody knows it.

CHRIS DODD reached out to Republicans week after week and month after month to try to get some cooperation. Finally, they just walked away and they said: We are all going to vote no, no matter what. So it is not the case that this was designed to be some sort of partisan bill. I still hope there will be Republicans and Democrats who together understand what needs to be done to fix the problems that exist in our financial services industry.

In addition to Senator DODD bringing a bill from the Banking Committee, let me say Senator BLANCHE LINCOLN, under her leadership in the Agriculture Committee, has brought a piece of legislation to the Senate floor on derivatives that I think is a good piece of legislation that needs to be a part of the banking reform bill.

What I wish to talk about ever so briefly is two other things. There are a number of people who have bills that I am going to be supportive of that I think have great merit that are necessary. I think they are necessary to fix the real problems that exist. The issue of repairing what was done to Glass-Steagall, Senator CANTWELL, Senator MCCAIN have a bill on that. There are others who have a bill on proprietary trading, and there are others as well. But I wish to talk about two things very briefly.

No. 1, I am preparing an amendment that deals with what are called naked credit default swaps. I don't think that is investing. That is simply betting. If there is no insurable interest on either side of credit default swaps, that is not investing. I think there ought to be a requirement that there be an insurable interest on at least one side in order for it to be a legitimate function because it seems to me if we don't ban naked credit default swaps, we will have missed the opportunity to do something that is necessary to fix part of what happened in the last decade, No. 1.

No. 2 is the issue of too big to fail. It has not been described, it seems to me, by either the Banking Committee or by amendments that have been suggested—it has not been described that we should take seriously too big to fail by deciding if you are too big to fail, you are too big. This country has, on occasion—when we have a systemic risk that is unacceptable, when we have a moral imperative to do something about something such as this, this country has decided we will break Standard Oil into 23 parts; we will break up AT&T—and, by the way, the 23 parts turned out to be much more valuable in their sum than the value of the whole.

But having said all that, I believe there needs to be an amendment—and I am preparing an amendment—that deals with the issue of too big to fail. Very simply it says if the Financial Stability Oversight Council develops an approach that says, all right, this is an institution that is just too big to fail and the moral hazard for our country and the systemic risk for our country is too great and therefore we judge it too big to fail, I believe what ought to happen over a period of time—perhaps 5 years—is a symptomatic divestiture sufficient so that the institution remains an institution that is not then too big to fail. I believe that ought to be something that we consider as we develop our approach to these financial reform measures.

I don't think big is always bad, and I don't think small is always beautiful. I want us to be big enough to compete. I want us to have the resources to be able to make big investments in big projects. I understand all of that, and I can point to some terrific financial companies in this country run by first-rate executives.

So understand what I am talking about are the abuses and the unbelievable cesspool of greed we have seen in a decade from some institutions that were big enough and strong enough to run this country into very serious trouble. That is why I think we have a responsibility at this point to address all of those issues that are in front of us as we deal with banking reform.

I know this is going to be a long and a difficult task, but one of my hopes would be that Republicans and Democrats can all agree on one thing: What we have experienced in the last decade cannot be allowed to continue. It cannot be allowed to continue. No one, I believe, would want our financial institutions to continue to bet rather than invest, to continue to invest in naked credit default swaps where there is no insurable interest. Nobody, I would hope, would believe that represents the kind of productive financing that we need to produce in this country again. I want the financing to be available from good, strong financial institutions to good, strong companies that need to expand to produce American goods that say ''Made in America'' again.

That is what I want for our country. That kind of economic health can only come if you have a strong system of financial institutions that are engaged in the things that originally made this a great country, not trading naked credit default swaps but making good investments in the productive sector of this country.

I believe we can do that again, and I believe we will. I don't approach this banking reform debate with trepidation. I think ultimately cooler heads will prevail and all of us will understand the need, and when we meet that need, this country will be much better off.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

FOOD SECURITY

Mr. CASEY. Mr. President, I rise today to speak about an issue that was the subject of a Foreign Relations Committee hearing today, of course, chaired by our chairman, JOHN KERRY, and the ranking member, Senator DICK LUGAR.

Today in America and worldwide, every 5 seconds a child dies from starvation. Every 5 seconds across the world, every 5 seconds every day is the reality that stares us in the face. While the United States has historically played an important role in addressing hunger internationally, this simple fact should serve as a galvanizing call to action on this issue.

The 2008 global food crisis brought attention to the fact that emergency food assistance was not enough, as generous as our country is and as important as that strategy is to confronting the problem. The emergency food assistance that year was not enough, and donors in recipient countries that need to work together to address this systemic problem need to do so even more so today.

The Obama administration has rightly prioritized food security and the political support in the Senate is growing every day for the Lugar-Casey Global Food Security Act. I commend Senator LUGAR for his work on these issues for many years and, of course, I wish to commend and thank the work that our chairman, Senator JOHN KERRY, is doing on this issue every day as well.

Creating an environment where local farmers can produce for themselves and their communities as well as easily trade to get their goods to market is the key to fundamentally changing this ongoing crisis.

With a host of competing priorities for the attention of the United States, I believe there are at least two reasons food security matters, even in the midst of some of the challenges we are facing domestically.

First, this is a humanitarian crisis of immense proportions that we can go a long way toward solving. I think when we talk about this issue, no matter who we are, no matter what our station in life is, this is an issue that we come to, summoned by our conscience, and I think that is true in the Senate as well.

As one of the richest countries in the world, I believe we have a moral obligation to do all we can to help. This crisis is solvable with a combination of assistance and emphasis on providing small farmers around the world the know-how, the technology, and the means to provide for themselves.

The second reason, in addition to this being a humanitarian crisis as to why this is so important, is global hunger is a national security issue. Instability arising from conflict across the world over access to food is a documented problem. The 2008 food crisis, unfortunately, brought this into sharp, acute focus.

We saw it in Somalia, where struggles to gain access to food have enveloped population centers in violence. We have seen it in Egypt as citizens rioted for access to bread. We have seen it in Haiti more recently, where hospital beds filled in 2008 with those injured during food riots. Increased instability in any of these countries has a direct impact on U.S. national security interests.

The root causes of this perfect storm of crisis are well known but worth recounting. In 2008, food demand was driven higher due to expanding population and rising incomes. More cereals were needed to feed livestock for the production of meat and dairy products and to fill increasing demand for biofuels across the world. Higher oil prices, combined with weak harvests and rising global demand, created a scramble for resources. Wheat prices more than doubled and rice prices more than tripled between January and May of 2008.

Twenty-eight countries imposed export bans on their crops, driving up

commodity prices and limiting supply. This led to political unrest across the globe. It concentrated among developing countries with large, food-insecure, poor urban populations.

While this was indeed a perfect storm of events, the underlying issues that created this crisis continued. In Sub-Saharan Africa, for example, 80 to 90 percent of all cereal prices remain 25 percent higher than they were before the crisis began. In many Asian and Latin American and Caribbean countries, prices are still more than 25 percent higher than in the precrisis period of time. In the wake of the economic crisis, the World Food Programme began receiving requests for assistance even from countries that previously were able to provide for themselves.

The peripheral effects of food insecurity are considerable. High rates of hunger are shown to be linked to gender inequality, especially in terms of education and literacy, which also negatively affects the rate of child malnutrition. This number is stunning. It is estimated that 60 percent of the world's chronically hungry are women and girls—60 percent—20 percent of whom are children under the age of 5. It is almost incalculable. Those numbers are staggering and should do more than just bother us and just inform our conscience; they should also motivate us to do something about this crisis. I cite these figures, and too often in Washington we are guilty of doing just that—citing figures. But they have real impact and real meaning.

I have had the privilege of personally working with some very special women in Pennsylvania who took it upon themselves to really highlight some of these issues. The Witnesses to Hunger is a project that started in Philadelphia, PA. These women were given cameras to photograph their own lives, to tell us the truth of their experiences, and to raise awareness on many critical issues, including specifically hunger.

Last year, I had the honor, as did my wife Teresa, of bringing their exhibit to Washington, and in November we launched a tour across Pennsylvania to highlight this issue. I cannot begin to describe how moved I was—as were so many others who saw this exhibit—to see the photographs taken by these women and to hear their stories of hunger and of poverty. Their bravery and rare courage in sharing the struggles they face to provide a safe, nurturing home for their children will always stay with me.

These mothers who brought Witnesses to Hunger to life are constant reminders that the programs we in Congress advocate for and the new initiatives we can develop can have a profound impact on people's lives, whether it is in our towns and communities in Pennsylvania or in any other State or around the world, because this is a problem our world and our country face.

Hunger in a country such as Pakistan poses both a humanitarian and a security issue. Last year, over 77 million people in that country, Pakistan, were considered food insecure by the World Food Programme. That is nearly half of their population. As their military conducts its continued operations against extremist forces, their numbers could increase. Hunger and competition for food can lead to further instability and potentially undermine the Pakistani Government's leadership at a very critical time.

The global food crisis is still a serious problem, and despite the efforts of the administration, we still have a lot of catching up to do in order to respond properly. According to the Center for Strategic and International Studies, the U.S. commitment to agricultural development has declined in recent years, though emergency food assistance continues at robust levels. Worldwide, the share of agriculture in development assistance has fallen from a high of 13 percent in 1985 to 4 percent between 2002 and 2007. The U.S. development assistance to African agriculture fell from its peak of about $500 million in 1988 to less than $100 million in 2006. We can do a lot better than that.

The USAID has been hardest hit during this period. The USAID once considered agricultural expertise to be a core strength but today operates under diminished capacity. That is an understatement. Here is what I mean. In 1990, USAID employed 181 agricultural specialists, but in 2009 just 22—from 181 to 22 in just those years, less than 20 years. That number has gone up from 22 recently, with the new administration, but it is still far too few to work on this problem.

In the 1970s, the U.S. Government sponsored 20,000 annual scholarships for future leadership in agriculture, engineering, and related fields. Today, that number has fallen to less than 900. So we are not developing the workforce and expertise we need.

We simply don't currently have adequate infrastructure in our government to respond to this crisis. The administration is making progress, though. The administration's Global Hunger and Food Security Initiative, known by the acronym GHFSI, is a comprehensive approach to food security based on country- and community-led planning and collaboration. I welcome this opportunity to hear directly from the administration about this effort. While I know the Obama administration has worked assiduously to coordinate an interagency process and selection criteria for country participation around the world, questions remain in terms of overall leadership of the initiative, as well as its plan to develop internal expertise and capacity that is sustainable over the long term.

In the Senate, we have worked to bring attention to the world's hungry. Senator LUGAR, as I mentioned before, a respected leader in this field for decades, and I have joined together to introduce the Global Food Security Act. I will highlight three provisions before I conclude.

First, the Global Food Security Act would provide enhanced coordination within the U.S. Government so that USAID, the Department of Agriculture, and other agencies are working together and not at cross-purposes.

Second, this bill would expand U.S. investment in the agricultural productivity of developing nations, so that other nations facing escalating food prices can rely less on emergency food assistance and instead take steps to expand their own crop production. Every dollar invested in agricultural research and development generates $9 for every dollar worth of food in the developing worlds.

Third, this bill, the Global Food Security Act, will modernize our system of emergency food assistance so that it is more flexible and can provide aid on short notice. We do that by authorizing a new $500 million fund for U.S. emergency food assistance.

This is one of those rare occasions—unfortunately, too rare—where a serious crisis was greeted with substantial response by an administration—in this case, the Obama administration—as well as bipartisan collaboration in the Senate and the House. I am encouraged that there has been positive movement toward fundamentally changing how we look at food security issues. Such support, however, is not permanent, and we should enact this multiyear authorization bill to ensure that such congressional support exists in the future, many years from now. We cannot wait for another massive food crisis before taking action on this legislation. This is the right thing to do, and we will ultimately enhance the security of the United States and our allies.

Mr. President, this isn't just a matter of being summoned by our conscience. That we know is part of the reason we are doing this. This is also a grave national security issue for us and our allies. For that reason and so many others, we need to pass the Global Food Security Act and support the administration's efforts on the Global Hunger and Food Security Initiative.

I yield the floor.

TRIBUTE TO BRIAN DUFFY

Mr. MCCONNELL. Mr. President, I rise to honor Mr. Brian Duffy of Louisville, KY, for his hard work and support on behalf of Kentucky's World War II and terminally ill veterans. Mr. Duffy founded the Bluegrass Honor Flight chapter in 2007. Through his leadership, and the support of numerous donations and volunteers, the Bluegrass Honor Flight chapter has been able to fly nearly 600 veterans from Kentucky to Washington, DC, providing these brave patriots the opportunity to see their memorial firsthand.

Today, I wish to congratulate Mr. Duffy, himself a veteran, for recently being named 2010's official

''Thundernator'' responsible for starting the ''Thunder over Louisville'' firework show. He was so named because of his dedication to the Bluegrass Honor Flight organization.

I know my colleagues will join me in honoring Mr. Duffy for his tireless advocacy on behalf of veterans.

GLOBAL YOUTH SERVICE DAYS

Ms. MURKOWSKI. Mr. President, I wish to speak about a resolution designating April 23 through 25, 2010, as ''Global Youth Service Days.'' S. Res. 493 recognizes and commends the significant community service efforts that youth are making in communities across the country and around the world on the last weekend in April and every day. This resolution also encourages the citizens of the United States to acknowledge and support these volunteer efforts. S. Res. 493 passed the Senate by unanimous consent on April 20, 2010. This sends a very strong message of support to the thousands of youth across our great Nation who contribute positively to their communities—your efforts are recognized and appreciated.

Beginning this Friday, April 23, youth from across the United States and around the world will carry out community service projects in areas ranging from hunger to literacy to the environment. Through this service, many will embark on a lifelong path of service and civic engagement.

This event is not isolated to one weekend a year. Global Youth Service Days is an annual public awareness and education campaign that highlights the valuable contributions that young people make to their communities throughout the year.

The participation of youth in community service provides an opportunity to identify and address the needs of their communities and make positive differences in the world around them, learn leadership, organizational skills, and gain insights into the problems of their fellow citizens.

High-quality service-learning activities help young people make important connections between the school curriculum and the challenges they see in their communities. Youth who are engaged in volunteer service and service-learning activities do better in school than their classmates who do not volunteer are also more likely to avoid risky behaviors, such as drug and alcohol abuse. Service within the community contributes positively to young people's character development, civic participation, and philanthropic activity as adults.

It is important, therefore, that the Senate encourage youth to engage in community service and to congratulate them for the service they provide.

In an effort to recognize and support youth volunteers in my State, I am proud to acknowledge some of the activities that will occur this year in Alaska in observance of National and Global Youth Service Days:

Anchorage's Promise, which works to mobilize all sectors of the community to build the character and competence of Anchorage's children and youth, has sponsored the annual KidsDay events in Anchorage again this year. Youth provided significant service to their peers and to adults who attended KidsDay activities:

The Spirit of Youth Teen Action Council's Herb Project provided youth with the task of building organic hanging gardens for local elders who are unable to get out and garden this year. The Alaska Botanical Garden also supported this project with important tips about the benefits of starting your own garden at home.

Operation Support Our Soldiers, SOS, made cards for our military deployed overseas to show support and appreciation for the sacrifice that these brave men and women make every day.

The Alaska Teen Media Institute also participated in the day interviewing youth and giving tips on media production.

Teen volunteers from Anchorage conducted surveys of youth attending the 2010 KidsDay and also surveyed vendor booths regarding volunteer and employment opportunities.

Chugiak High School Junior ROTC assisted Anchorage's Promise this year at KidsDay by providing security to protect children.

In addition to the KidsDay events, young people from every region of Alaska will serve their communities in the following ways:

The Juneau Alaska Youth for Environmental Action has been working with the Juneau-Douglas High School Food Services, to transition from plastic disposable silverware to reusable metal silverware.

SAGA Juneau will be working in coordination with the Juneau School District to provide volunteer opportunities to youth.

Members of the Chugiak Family Career and Community Leaders of America coordinated four activities to earn funds for the Malowi Children's Village. They raised $560 for mosquito bed nets which will buy 260 nets to protect children from deadly insect bites.

Anchorage Boy Scout troops teamed up with local supermarkets in order to collect food for the homeless.

The Music Canvas in Anchorage offered a free sing-a-long class for families with young children.

Shishmaref Village led a trip with skilled hunters to teach the youth traditional hunting and survival tactics.

An ongoing project from the students at the Alaska Teen Media Institute involves production of a public affairs radio show on KNBA 90.3 FM Anchorage. ''In Other News'' airs the last Saturday of the month and features news and views from the teen perspective.

Teens of Covenant House Alaska will be partnering with Abundant Life Generation to outreach to women and children in Nepal that have experienced sexual exploitation from human trafficking.

Homer residents helped clean the city. Cash prizes were awarded to the top three ''trash collectors,'' and over 650 bags of trash were collected.

Over 750 volunteers joined together in Soldotna to help rebuild the local playgrounds in the city.

Cadets from the North Pole High School Air Force Junior ROTC collected donations and helped out the Alaska Blood Bank in Fairbanks.

Teen volunteers in Anchorage helped prepare materials for the annual summer reading celebration.

Youth assisted Anchorage's Promise with getting the meaning behind the five promises out into the community.

The Alaska Food Bank offered a volunteer opportunity to help the Boy Scouts of America sort out their donations from this year's Scouting for Food Drive.

Thousands of youth volunteers gathered to help clean up the neighborhoods of Anchorage.

The Alaska High School Challenge sponsored by the Blood Bank of Alaska increases awareness in the community about the importance of donating blood and allows high schools to compete with one another for recognition of saving the most lives in Alaska.

The PANIC/Mountaineer Sports Program cleaned and painted the Mount View Community Center Boys and Girls Club.

Sterling Community Club youth helped to salvage road kill moose in order to feed hungry community members.

Boys and Girls Club youth were instructed on bike safety.

Eagle River Boys and Girls Club helped to show support for troops by making care packages during the holidays.

Port Graham School students partnered up with elders in the community to learn more about traditional knowledge and cultural importance.

Wrangell youth worked with the Women in Safe Homes project and AmeriCorps members to create artwork for the Wrangell Medical Center.

Youth Group of Anchorage Unitarian Universalist Fellowship made and distributed Easter baskets to homeless youth.

Students at Barry Craig Stewart Kassan School were involved in a week of activities that focused on building skills such as teamwork and communication.

Students at Tok School were given the opportunity to ''adopt'' a person whom they found to be a positive influence on their lives.

Eagle River Lion's Club teamed up with youth to provide an Easter egg hunt for the community.

The community of Dillingham joined together to celebrate the achievements of local youth and elders.

Students with the Yakutat High National Honor Society held a community health fair.

Meterviit Youth Action Group in New Stuyahok held an event to discuss

environmental issues the village should address for the future.

Tri-Valley Community Library and the After School Yearbook Club at Healy school celebrated the 40th anniversary of the local school.

Mr. President, I am so proud of all of these young people. I value their idealism, energy, creativity, and unique perspectives as they volunteer to make their communities better and assist those in need.

Many similarly wonderful activities will be taking place all across the Nation. I encourage all of my colleagues to visit the Youth Service America Web site—www.ysa.org—to find out about the selfless and creative youth who are contributing in their own States this year.

I thank my colleagues—Senators AKAKA, BAYH, BEGICH, BINGAMAN, BURR, CARDIN, COCHRAN, COLLINS, DODD, FEINSTEIN, GILLIBRAND, GREGG, HAGAN, ISAKSON, KLOBUCHAR, LANDRIEU, LAUTENBERG, LEMIEUX, LIEBERMAN, LINCOLN, MENENDEZ, MIKULSKI, MURRAY, BEN NELSON, STABENOW, and MARK UDALL—for standing with me as original cosponsors of this worthwhile resolution which will ensure that youth across the country and the world know that all of their hard work is greatly appreciated.

TRIBUTE TO DR. DOROTHY I. HEIGHT

Ms. LANDRIEU. Mr. President, I rise to pay tribute to a great Civil Rights leader of our Nation, who passed away recently. I come to the floor in her memory to pause for just a moment and to remember this great lady.

Tuesday, the Nation lost a powerful advocate for justice, equality, and opportunity for all people. Dr. Dorothy I. Height was truly a heroine of the civil rights movement. She was a civil rights trailblazer whose courage and determination has allowed women around the nation to break through glass ceilings and realize their dreams. She has certainly been an inspiration to me personally.

Dr. Height was the chair and president emerita of the National Council of Negro Women, Incorporated. The council was founded by Mary McLeod Bethune. She brought 28 national women leaders together to improve the quality of life for women. Dr. Height embraced that vision and continued the crusade for justice. Through her leadership, she changed our nation by shining a light on discrimination and injustice that was all too common in America during the 20th century.

Dr. Height was also a member of many other organizations such as the YWCA and the Delta Sigma Theta Sorority, Inc. Through her dedication and commitment in these organizations, she encouraged women to be leaders in national and community organizations and on college campuses. She had an extraordinary presence, a really big and wonderful heart, she was a great intellect, and she had a passion for people. She is an example of the impact that women have on leadership. She was born not only to be all a woman could be, but all a person could be, all a leader could be. Dr. Dorothy Height will always be respectfully remembered.

She has received many awards including the Presidential Medal of Freedom Award, the Congressional Gold Medal Award. I was proud to join my Senate colleagues on sponsoring a Senate resolution honoring the life and legacy of Dr. Height. She will be greatly missed and her legacy will live on in the women she inspired.

AMERICAN CITY QUALITY MONTH

Ms. COLLINS. Mr. President, I rise today to recognize April as the 22nd Annual National American City Quality Month. Led by the National League of Cities, the U.S. Conference of Mayors, American City Planning Directors' Council/American City Quality Foundation, Urban Land Institute, City Planning and Management Division of the American Planning Association, International City/County Management Association, American Public Transportation Association, American Society of Landscape Architects and others, this valuable program brings together a wide range of public and private partners. Their efforts demonstrate what it takes to plan and develop better quality communities addressing vital issues including land use, building design, transportation, housing, parks and recreation, energy efficiency, economic development, environmental protection, sustainability and livability.

City planners across my State of Maine and throughout the Nation are calling on public and private sector leaders to commit to preparing, adopting and implementing a nationwide better quality communities plan that will lead to better planning, redevelopment and development of our Nation's cities and surrounding regions. This is essential to accommodate U.S. Census projected population growth of about 30 million by the year 2020 and 100 million within 30 to 40 years. This is the equivalent of building eleven cities the size of Chicago. Also, it will help to create jobs, stop urban sprawl, guide billions of dollars of investment to improve communities while lowering governmental operating expenses and taxes.

This public-private partnership is necessary to meet the growing need for higher quality, more energy efficient and sustainable housing, buildings, public transportation, infrastructure, agriculture, and industry. All citizens are urged to get involved by contacting their community planners. I applaud these collaborative efforts to improve urban and rural communities across our Nation.

This collaborative planning works. Just last year, Forbes Magazine named Portland, ME, my State's largest city, as the most livable city in America. In addition, Portland's busy Commercial Street was voted as one of the country's great streets by the American Planning Association. The transformation of Portland did not happen by accident. It is the result of citizens and organizations working together. American City Quality Month celebrates this effort. This year our Governor, John Baldacci, proclaimed April as American City Quality Month. Other Governors and officials are invited to do the same.

RECOGNIZING MIDDLEBURY COLLEGE

Mr. LEAHY. Mr. President, I speak often about the excellent higher education opportunities that are available in Vermont. Today, I want to honor Middlebury College for a new business venture that builds upon its academic reputation in foreign languages.

A small, liberal arts school of 2400 students, located in Addison County, Middlebury is a campus that is rooted in Vermont's rich culture, while charting the way forward to the future. From using wood chips to heat and cool buildings across the campus, to local food initiatives, to recycling building materials, students, faculty and staff use creativity and build on a tradition of excellence in helping to take the college to the next level.

This week, Middlebury College was hailed as one of the Nation's top ''green colleges'' in a new ranking by the Princeton Review. And a recent article in the New York Times described the college's new and innovative business partnership to develop an online language program for precollege students. Already well known for its intensive summer language programs, Middlebury will be able to broaden its reach and impact by bringing a language program directly into the homes of American students wanting to learn new languages.

The Internet has emerged as a significant learning tool, and connecting students with language instruction on the Web is a wonderful academic idea as well as an innovative business initiative.

I know that Middlebury College will continue to be a leader in academic innovation, and I wish them the best in their new endeavor.

ADDITIONAL STATEMENTS

RECOGNIZING CLEMSON UNIVERSITY SCROLL OF HONOR

● Mr. GRAHAM. Mr. President, I ask the Senate to join me in recognizing a historic event taking place in Clemson, SC. Today, Clemson University and the Clemson Corps are dedicating its Scroll of Honor Memorial, which recognizes the 473 Clemson University alumni who sacrificed their lives protecting and defending our Nation.

Clemson University has a long and distinguished military history, and todays dedication of the Scroll of Honor is a testament to this school's continued commitment to honoring those who serve our country. I truly appreciate the Clemson Corp for spearheading this important project.

As Senator, I have had the great honor to meet many of our Nation's soldiers, sailors, airmen and marines serving abroad. They are dedicated, proud individuals who take their jobs to protect our Nation very seriously.

Like the millions of veterans who served before them, they also know the great truth that freedom is never free. It was won and protected for more than two centuries by patriotic Americans willing to risk their lives to defend this great country of ours.

Millions of Americans have given their blood, sweat, and tears in defense of this great land. Many, like the individuals we honor today, paid the ultimate price. Words cannot adequately express the great respect and admiration I have for these individuals.

I, like all Americans, will forever be indebted to them for their sacrifice.

I ask that the U.S. Senate join me in honoring these distinguished Sons of Dear Old Clemson, their families, and the thousands of soldiers, sailors, airmen, and marines who continue to serve our Nation. And may God continue to bless our United States of America.●

TRIBUTE TO GERARD BAKER

● Mr. JOHNSON. Mr. President, today I pay tribute to Gerard Baker, Superintendent of Mount Rushmore National Memorial. Superintendent Baker has accepted a new assignment as Assistant Director for American Indian Relations for the National Park Service. While his leadership at Mount Rushmore will be greatly missed, the entirety of the Park Service will benefit from this new role. I have enjoyed working with Gerard in his capacity as Superintendent and want to take this opportunity to recognize his accomplishments.

During his tenure, Gerard has helped promote a comprehensive understanding of the significance of Mount Rushmore and the surrounding Black Hills. In addition to telling the story of the four Presidents whose likenesses are carved into the mountain, he and his staff have worked to broaden the perspectives of history, culture, and natural resources at the memorial. Visitors, young and old alike, have enjoyed expanded interpretive programs, including an award-winning audio tour available in Lakota and a Heritage Village highlighting the history and customs of local American Indian communities. Gerard has done an admirable job of promoting understanding and celebration of all of the cultures that make up our democracy.

Gerard's long and accomplished career with the National Park Service began in 1979 at the Knife River Indian Villages National Historic Site where he worked as a park technician. He worked his way up and eventually became Superintendent of Little Big Horn Battlefield National Monument. He would later serve as the first Superintendent of the Lewis and Clark National Historic Trail before coming to Mount Rushmore. Throughout his career, Gerard has been recognized with numerous awards for exceptional work. He was also recently featured in the Ken Burns documentary ''The National Parks: America's Best Idea.''

National Park Service Director Jon Jarvis should be commended for recognizing the importance of working with tribes across our country on cultural and natural resources issues central to the Park Service's mission. He could not have picked a better person to represent the Park Service in this capacity. In addition to vast experience with the Park Service, Gerard brings a lifetime of learning from his own heritage as a Mandan-Hidatsa Indian. That perspective, coupled with the charisma and good humor Gerard is so well known for, will be a great asset for the Park Service.

In closing, I would like to thank Gerard and his wife Mary Kay for their dedication to Mount Rushmore and the Black Hills area. I wish him all the best in his new position as Assistant Director for American Indian Relations for the National Park Service. Gerard's efforts at Mount Rushmore will continue to benefit visitors for years to come, and I congratulate him on his accomplishments.●

REMEMBERING VERNON C. POLITE

● Mr. LEVIN. Mr. President, I wish to honor the life of Vernon C. Polite, dean of the Eastern Michigan University College of Education, who passed away on March 8, 2010. Dean Polite led a life of integrity, passion, and dedication. His exemplary work and his personal warmth surely will be missed by all whose lives he touched. A memorial service will be held on the campus of Eastern Michigan University today to celebrate the life of this wonderful man.

Dean Polite's efforts to enrich the educational experiences of students in Michigan and across the country are truly inspiring. His guidance has left an indelible mark on the institutions in which he has played a part. From his work as principal at Oak Park Public Schools and professor at Catholic University of America, to his roles as founding dean of Bowie State University's School of Education and dean of the Eastern Michigan University College of Education, Dean Polite has set an example of conscientious and courageous leadership.

Dean Polite was embraced by colleagues, students, family, and friends as much for his impressive accomplishments as for his generous heart and personal kindness. He has been called ''an ambassador for education and for social justice across the nation.'' His dedication to social justice is not only evident in the research he conducted on organizational change and minority educational issues and in his active pursuit of diversity at Eastern Michigan and other institutions but also in the graceful and respectful manner in which he interacted with those around him each day. Dean Polite leaves a void at Eastern Michigan University and in the countless lives he helped to shape. His memory will be a vivid and lasting inspiration to many.

Vernon C. Polite dedicated his life to education and accomplished much in his long and illustrious career. His legacy is that of a life well-spent and is embodied in the accomplishments and aspirations of the students he inspired. I know my colleagues join me in extending condolences to Vernon's sister, Carol Brooks, and his brother, Willie Brooks, as well as to the entire Eastern Michigan University community, as we honor the life of this remarkable man.●

TRIBUTE TO SPECIALIST MICHELLE DONOVAN

● Mrs. LINCOLN. Mr. President, today I honor National Guard Specialist Michelle Donovan, a resident of Hot Springs Village in my home State of Arkansas. Specialist Donovan recently received the Purple Heart for injuries she sustained while serving in Iraq nearly 3 years ago.

Specialist Donovan served as a combat medic assigned to the 875th Engineer Battalion, Arkansas National Guard. On August 21, 2007, while on patrol in Iraq, the vehicle in which she was riding struck an explosive device, leaving her and her four team members seriously wounded. She suffered severe traumatic brain injury and wounds to her leg and shoulder, as well as injuries to her face, requiring a medical discharge from the Arkansas National Guard.

Along with all Arkansans, I salute Specialist Donovan for her bravery, and I am grateful for her service and sacrifice.

More than 11,000 Arkansans on active duty and more than 10,000 Arkansas reservists have served in Iraq or Afghanistan since September 11, 2001. It is the responsibility of our Nation to provide the tools necessary to care for our country's returning servicemembers and honor the commitment our Nation made when we sent them into harm's way. Our grateful Nation will not forget them when their military service is complete. It is the least we can do for those whom we owe so much.●

TRIBUTE TO ALICE SMITH

● Mrs. LINCOLN. Mr. President, today I congratulate Alice Smith for being named the 2009 Citizen of the Year by the Clarendon Chamber of Commerce.

According to those who know her best, Alice is a dedicated community

volunteer, spending countless hours of her time helping others throughout the Clarendon community. A long-time volunteer with the Boy Scouts, Alice also serves as President of the Clarendon Chamber of Commerce and is a member of Visions for Clarendon, the Clarendon American Legion Auxiliary, and a board member for the Monroe County Human Development Center. Alice also fought to save the annual Clarendon Christmas parade when it was on the verge of cancellation due to lack of funds and participation.

I have felt a long kinship to Clarendon, and I am grateful for the friendships I have made there. Clarendon is a community with a great spirit of volunteerism and caring. We should all embrace Alice's spirit of service and volunteerism. I send my heartfelt congratulations to her and her family.●

40TH ANNIVERSARY OF THE FOUNDING OF HOT SPRINGS VILLAGE

● Mrs. LINCOLN. Mr. President, today I rise to recognize the residents of Hot Springs Village in my home State of Arkansas.

Hot Springs Village is a gated resort and retirement community in scenic west central Arkansas in the Ouachita Mountains. It is home to 15,000 residents and offers 11 recreational lakes for fishing, swimming and boating, 16 tennis courts, a fitness center, a 650-seat performing arts center, and over 20 miles of wooded nature trails.

During the week of April 17–25, Hot Springs Village will celebrate its 40th anniversary with events throughout the community, including concerts, golf tournaments, luncheons, open houses, and more. These events symbolize the culture, recreation, and community spirit that define Hot Springs Village and its citizens.

Mr. President, I salute the residents of Hot Springs Village for their efforts to maintain the heritage, beauty, and history of their community. I join all Arkansans to express my pride in this jewel of Arkansas.●

RECOGNIZING DENNYMIKE'S 'CUE STUFF INC.

● Ms. SNOWE. Mr. President, though we often say in Maine that April can still be considered a winter month, we are hopeful that warmer weather is just around the corner. And one of our Nation's favorite summer pastimes is grilling outdoors—eating good food while enjoying the company of friends and family. While barbecue is traditionally considered Southern cuisine, one Maine company is out to redefine that notion—and having great success in this endeavor. As such, I rise today to recognize DennyMike's 'Cue Stuff Inc. for its numerous award-winning barbecue products.

DennyMike's got its start in 2002 when Dennis Michael—or DennyMike—Sherman, a born and bred Mainer, opened DennyMike's Smokehouse BBQ and Deli in the popular seaside town of Old Orchard Beach. Mr. Sherman's purpose in opening this unique restaurant in Maine was to expose New Englanders to a cuisine he has loved since the 1970s, when he first experienced authentic Texas-style barbecue. In 2008, Mr. Sherman also launched a line of genuine, hand-crafted barbecue rubs and sauces for use by customers at home, whether it be to spice up meatloaf made in the oven or add flavor to seafood or steak cooked on the grill. The company is a member of the Kansas City BBQ Society and the National BBQ Association, among other organizations, ensuring that it is at the forefront of this burgeoning industry.

To create its unique sauces and rubs, DennyMike's utilizes high-quality ingredients such as clover honey, natural sea salt, and Barbados molasses. The company creates these products, which are all-natural and gluten-free, in small batches to ensure a richer flavor. The company markets a broad range of sauces like the Sweet 'N Spicy, DennyMike's original standard-bearer, as well as rubs that include the Fintastic, seasoned with a hint of citrus for a tangy twist on traditional Maine cuisine such as fresh fish and shrimp. From sweet and savory to strong and spicy, DennyMike's products are designed to please any discerning set of taste buds. DennyMike and his wife, Patty, accompanied by one full-time employee, produce the sauces and rubs, with five part-time workers supplementing as needed.

While some may scoff at the notion of an award-winning barbecue master hailing from Maine, Mr. Sherman has put such critics to shame with an impressive display of awards from organizations nationwide. In November, one of DennyMike's sauces was named the best barbecue sauce in the ''All-Natural Hot'' category at the 2010 Scovie Awards, while another of its distinctive rubs won top place in the ''Dry Rub/All-Purpose'' class. Decided through scrupulous blind tastings, the Scovie Awards are prestigious in the barbecue industry, and now comprise one of the world's most competitive gourmet food competitions. Additionally, DennyMike's received five medals—two gold, one silver, and two bronze—from the National Barbecue Association, or NBBQA, last year, while also winning several awards for its distinct packaging from various organizations. At this year's NBBQA Conference and Expo, DennyMike's racked up seven awards, building on its record of accomplishment and success within the industry.

DennyMike's 'Cue Stuff has quickly made a name for itself by introducing quality, all-natural barbecue products to our home State. As he continues to promote his sauces and rubs at regional trade shows across New England, I am confident that word will only spread faster of Mr. Sherman's creative and celebrated line of products. I thank Mr. Sherman for so vividly embodying the entrepreneurial spirit, and wish him continued success in his tasty quest.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mrs. Neiman, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations and a withdrawal which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 10:58 a.m., a message from the House of Representatives, delivered by Mrs. Cole, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 1585. An act to increase awareness of physical activity opportunities at school, and for other purposes.

H.R. 3553. An act to exclude from consideration as income under the Native American Housing Assistance and Self-Determination Act of 1996 amounts received by a family from the Department of Veterans Affairs for service-related disabilities of a member of the family.

H.R. 4178. An act to amend the Federal Deposit Insurance Act to provide for deposit restricted qualified tuition programs, and for other purposes.

The message also announced that the House has passed the following bill, with an amendment, in which it requests the concurrence of the Senate:

S. 1963. An act to amend title 38, United States Code, to provide assistance to caregivers of veterans, to improve the provision of health care to veterans, and for other purposes.

The message further announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 255. Concurrent resolution commemorating the 40th anniversary of Earth Day and honoring the founder of Earth Day, the late Senator Gaylord Nelson of Wisconsin.

ENROLLED BILL SIGNED

The President pro tempore (Mr. BYRD) announced that on today, April 22, 2010, he had signed the following enrolled bill, previously signed by the Speaker of the House:

H.R. 4360. An act to designate the Department of Veterans Affairs blind rehabilitation center in Long Beach, California, as the ''Major Charles Robert Soltes, Jr., O.D. Department of Veterans Blind Rehabilitation Center''.

At 3:36 p.m., a message from the House of Representatives, delivered by

Mrs. Cole, one of its reading clerks, announced that the House disagreed to the amendment of the Senate to the bill (H.R. 2194) entitled ''An act to amend the Iran Sanctions Act of 1996 to enhance United States diplomatic efforts with respect to Iran by expanding economic sanctions against Iran'', and agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints the following as managers of the conference on the part of the House:

From the Committee on Foreign Affairs, for consideration of the House bill and the Senate amendment, and modifications committed to conference: Messrs. BERMAN, ACKERMAN, SHERMAN, CROWLEY, SCOTT of Georgia, COSTA, KLEIN of Florida, Ms. ROS-LEHTINEN, Messrs. BURTON of Indiana, ROYCE, and PENCE.

From the Committee on Financial Services, for consideration of sections 3 and 4 of the House bill, and sections 101–103, 106, 203, and 401 of the Senate amendment, and modifications committed to conference: Messrs. FRANK of Massachusetts, MEEKS of New York, and GARRETT of New Jersey.

From the Committee on Ways and Means, for consideration of sections 3 and 4 of the House bill, and sections 101–103 and 401 of the Senate amendment, and modifications committed to conference: Messrs. LEVIN, TANNER, and CAMP.

MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 1585. An act to increase awareness of physical activity opportunities at school, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

H.R. 3553. An act to exclude from consideration as income under the Native American Housing Assistance and Self-Determination Act of 1996 amounts received by a family from the Department of Veterans Affairs for service-related disabilities of a member of the family; to the Committee on Indian Affairs.

H.R. 4178. An act to amend the Federal Deposit Insurance Act to provide for deposit restricted qualified tuition programs, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–5578. A communication from the Chief of Research and Analysis, Food and Nutrition Services, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Supplemental Nutrition Assistance Program, Regulation Restructuring: Issuance Regulation Update and Reorganization to Reflect the End of Coupon Issuance Systems'' (RIN0584–AD48) received in the Office of the President of the Senate on April 21, 2010; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5579. A communication from the Acting Under Secretary for Research, Education, and Economics, Office of Extramural Programs, National Institute of Food and Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Veterinary Medicine Loan Repayment Program (VMLRP)'' (RIN0524–AA43) received in the Office of the President of the Senate on April 20, 2010; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5580. A communication from the Deputy Secretary of Defense, transmitting, pursuant to law, the fourth quarter report for calendar year 2009 of the Joint Improvised Explosive Device Defeat Organization; to the Committee on Armed Services.

EC–5581. A communication from the Assistant Secretary, Bureau of Political-Military Affairs, Department of State, transmitting, pursuant to law, an addendum to a certification, transmittal number: DDTC 110–429, of the proposed sale or export of defense articles, including technical data, and defense services to a Middle East country regarding any possible affects such a sale might have relating to Israel's Qualitative Military Edge over military threats to Israel; to the Committee on Armed Services.

EC–5582. A communication from the Assistant Secretary, Bureau of Political-Military Affairs, Department of State, transmitting, pursuant to law, an addendum to a certification, transmittal number: DDTC 10–007, of the proposed sale or export of defense articles, including technical data, and defense services to a Middle East country regarding any possible affects such a sale might have relating to Israel's Qualitative Military Edge over military threats to Israel; to the Committee on Armed Services.

EC–5583. A communication from the Assistant Secretary of Defense (Reserve Affairs), transmitting, pursuant to law, a report relative to the States' contribution to the operating costs of a National Guard Youth Challenge Program; to the Committee on Armed Services.

EC–5584. A communication from the Assistant Secretary of Defense (Health Affairs), transmitting, pursuant to law, a report relative to the quality of health care provided by the Department of Defense; to the Committee on Armed Services.

EC–5585. A communication from the Assistant Secretary for Export Administration, Bureau of Industry and Security, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Revisions to the Export Administration Regulations Based on the 2009 Missile Technology Control Regime Plenary Agreements'' (RIN0694–AE79) received in the Office of the President of the Senate on April 21, 2010; to the Committee on Banking, Housing, and Urban Affairs.

EC–5586. A communication from the Chief Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Suspension of Community Eligibility'' ((44 CFR Part 64)(Docket No. FEMA–2008–0020)) received in the Office of the President of the Senate on April 21, 2010; to the Committee on Banking, Housing, and Urban Affairs.

EC–5587. A communication from the Chief Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Changes in Flood Elevation Determinations (75 FR 18072)'' ((44 CFR Part 65)(Docket No. FEMA–2010–0003)) received in the Office of the President of the Senate on April 21, 2010; to the Committee on Banking, Housing, and Urban Affairs.

EC–5588. A communication from the Chief Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Changes in Flood Elevation Determinations (75 FR 18086)'' ((44 CFR Part 65)(Docket No. FEMA–2010–0003)) received in the Office of the President of the Senate on April 21, 2010; to the Committee on Banking, Housing, and Urban Affairs.

EC–5589. A communication from the Chief Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Changes in Flood Elevation Determinations (77 FR 18090)'' ((44 CFR Part 65)(Docket No. FEMA–2010–0003)) received in the Office of the President of the Senate on April 21, 2010; to the Committee on Banking, Housing, and Urban Affairs.

EC–5590. A communication from the Chief Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Final Flood Elevation Determinations'' ((44 CFR Part 67)(Docket No. FEMA–2010–0003)) received in the Office of the President of the Senate on April 21, 2010; to the Committee on Banking, Housing, and Urban Affairs.

EC–5591. A communication from the Chief Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Suspension of Community Eligibility'' ((44 CFR Part 64)(Docket No. FEMA–2010–0003)) received in the Office of the President of the Senate on April 21, 2010; to the Committee on Banking, Housing, and Urban Affairs.

EC–5592. A communication from the Secretary of the Treasury, transmitting, pursuant to law, a six-month periodic report on the national emergency with respect to Burma that was declared in Executive Order 13047 of May 20, 1997; to the Committee on Banking, Housing, and Urban Affairs.

EC–5593. A communication from the Acting Fiscal Assistant Secretary, Department of the Treasury, transmitting, pursuant to law, a report relative to the notification of Congress that during the period of January 1, 2009, through December 31, 2009, no exceptions to the prohibition against favored treatment of a government securities broker or government securities dealer were granted by the Secretary of the Treasury; to the Committee on Banking, Housing, and Urban Affairs.

EC–5594. A communication from the Acting Fiscal Assistant Secretary, Department of the Treasury, transmitting, pursuant to law, a report relative to material violations or suspected material violations of regulations relating to Treasury auctions and other Treasury securities offerings for the period of January 1, 2009 through December 31, 2009; to the Committee on Banking, Housing, and Urban Affairs.

EC–5595. A communication from the Secretary of the Interior, transmitting, a legislative proposal relative to the issuance of coins to commemorate the 100th anniversary of the establishment of the National Park Service; to the Committee on Banking, Housing, and Urban Affairs.

EC–5596. A communication from the Director of Congressional Affairs, Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled ''Categorical Exclusions from Environmental Review'' (RIN3150–AI27) received in the Office of the President of the Senate on April 20, 2010; to the Committee on Energy and Natural Resources.

EC–5597. A communication from the Chief of Recovery and Delisting Branch, Endangered Species Program, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Endangered and

Threatened Wildlife and Plants; Reinstatement of Protections for the Grizzly Bear in the Greater Yellowstone Ecosystem in Compliance with Court Order'' (RIN1018–AW97) received in the Office of the President of the Senate on April 20, 2010; to the Committee on Environment and Public Works.

EC–5598. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Transitional Guidance for Taxpayers Claiming Relief Under the Military Spouses Residency Relief Act for Taxable Year 2009'' (Notice No. 2010–30) received in the Office of the President of the Senate on April 21, 2010; to the Committee on Finance.

EC–5599. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Applicable Federal Rates—May 2010'' (Rev. Rul. No. 2010–12) received in the Office of the President of the Senate on April 21, 2010; to the Committee on Finance.

EC–5600. A communication from the Assistant Secretary of Legislative Affairs, U.S. Department of State, transmitting, pursuant to law, the 2009 annual report on voting practices in the United Nations; to the Committee on Foreign Relations.

EC–5601. A communication from the Assistant Secretary of the Treasury, transmitting, proposed legislation relative to the Asian Development Fund and the Asian Development Bank; to the Committee on Foreign Relations.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of nominations were submitted:

By Mr. LEAHY for the Committee on the Judiciary.

David J. Hale, of Kentucky, to be United States Attorney for the Western District of Kentucky for the term of four years.

Kerry B. Harvey, of Kentucky, to be United States Attorney for the Eastern District of Kentucky for the term of four years.

Alicia Anne Garrido Limtiaco, of Guam, to be United States Attorney for the District of Guam and concurrently United States Attorney for the District of the Northern Mariana Islands for the term of four years .

Kenneth J. Gonzales, of New Mexico, to be United States Attorney for the District of New Mexico for the term of four years.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. FEINGOLD (for himself, Mr. BURR, Mr. VITTER, Mr. BENNET, Mrs. LINCOLN, Mr. GRASSLEY, Mrs. MCCASKILL, Mr. BEGICH, Mr. MCCAIN, Mr. WHITEHOUSE, Mr. LEAHY, Ms. STABENOW, Mr. NELSON of Nebraska, Mr. ENSIGN, and Mr. DURBIN):

S. 3244. A bill to provide that Members of Congress shall not receive a cost of living adjustment in pay during fiscal year 2011; considered and passed.

By Mrs. HAGAN (for herself, Mr. DURBIN, and Mr. SCHUMER):

S. 3245. A bill to establish rules for small denomination, short-term, unsecured cash advances, such as ''payday loans''; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. WYDEN (for himself and Mr. THUNE):

S. 3246. A bill to exclude from consideration as income under the Native American Housing Assistance and Self-Determination Act of 1996 amounts received by a family from the Department of Veterans Affairs for service-related disabilities of a member of the family; to the Committee on Indian Affairs.

By Mr. UDALL of Colorado (for himself, Mr. LUGAR, Mr. BROWN of Massachusetts, Mrs. HAGAN, Mr. LEVIN, Mr. LIEBERMAN, Mr. MENENDEZ, Ms. KLOBUCHAR, Mrs. SHAHEEN, and Mr. UDALL of New Mexico):

S. 3247. A bill to amend the Fair Credit Reporting Act with respect to fair and reasonable fees for credit scores; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. BINGAMAN (for himself, Mr. UDALL of Colorado, Mr. MCCAIN, and Mr. REID):

S. 3248. A bill to designate the Department of the Interior Building in Washington, District of Columbia, as the ''Stewart Lee Udall Department of the Interior Building''; to the Committee on Environment and Public Works.

By Mr. LIEBERMAN (for himself and Ms. COLLINS):

S. 3249. A bill to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to reauthorize the predisaster hazard mitigation program and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

By Mr. CARPER (for himself and Ms. COLLINS):

S. 3250. A bill to provide for the training of Federal building personnel, and for other purposes; to the Committee on Environment and Public Works.

By Mr. CARPER:

S. 3251. A bill to improve energy efficiency and the use of renewable energy by Federal agencies, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. TESTER:

S. 3252. A bill to amend the Surface Mining Control and Reclamation Act of 1977 to limit the liability of a State performing reclamation work under an approved State abandoned mine reclamation plan; to the Committee on Energy and Natural Resources.

By Ms. LANDRIEU:

S. 3253. A bill to provide for an additional temporary extension of programs under the Small Business Act and the Small Business Investment Act of 1958, and for other purposes; considered and passed.

By Mr. BROWN of Ohio (for himself, Mr. HARKIN, Mr. DURBIN, Mrs. MURRAY, Mr. CASEY, and Mr. MERKLEY):

S. 3254. A bill to amend the Fair Labor Standards Act of 1938 to require persons to keep records of non-employees who perform labor or services for remuneration and to provide a special penalty for persons who misclassify employees as non-employees, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mrs. LINCOLN (for herself and Ms. SNOWE):

S. 3255. A bill to amend title XVIII of the Social Security Act to provide coverage for custom fabricated breast prostheses following a mastectomy; to the Committee on Finance.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Ms. MIKULSKI:

S. Res. 495. A resolution recognizing the continued importance of volunteerism and national service and commemorating the anniversary of the signing of the landmark service legislation, the Edward M. Kennedy Serve America Act; to the Committee on Health, Education, Labor, and Pensions.

By Mr. WEBB (for himself, Mr. WARNER, Mr. COCHRAN, and Ms. SNOWE):

S. Res. 496. A resolution designating April 23, 2010, as ''National Adopt A Library Day''; considered and agreed to.

By Mr. DODD (for himself, Mr. ALEXANDER, Mr. JOHNSON, Mr. LIEBERMAN, and Mr. BAYH):

S. Res. 497. A resolution designating the third week of April 2010 as ''National Shaken Baby Syndrome Awareness Week''; considered and agreed to.

By Ms. COLLINS (for herself and Mr. DODD):

S. Res. 498. A resolution designating April 2010 as ''National Child Abuse Prevention Month''; to the Committee on the Judiciary.

By Mr. FEINGOLD (for himself, Mr. WICKER, Mr. BROWN of Ohio, Mr. SPECTER, Mr. LUGAR, Mr. DURBIN, Mr. CARDIN, Mr. SANDERS, Mrs. GILLIBRAND, Mr. JOHNSON, and Mr. INHOFE):

S. Res. 499. A resolution supporting the goals and ideals of World Malaria Day, and reaffirming United States leadership and support for efforts to combat malaria as a critical component of the President's Global Health Initiative; considered and agreed to.

ADDITIONAL COSPONSORS

S. 653

At the request of Mr. CARDIN, the name of the Senator from New Hampshire (Mrs. SHAHEEN) was added as a cosponsor of S. 653, a bill to require the Secretary of the Treasury to mint coins in commemoration of the bicentennial of the writing of the Star-Spangled Banner, and for other purposes.

S. 654

At the request of Mr. BUNNING, the name of the Senator from New Hampshire (Mrs. SHAHEEN) was added as a cosponsor of S. 654, a bill to amend title XIX of the Social Security Act to cover physician services delivered by podiatric physicians to ensure access by Medicaid beneficiaries to appropriate quality foot and ankle care.

S. 738

At the request of Ms. LANDRIEU, the name of the Senator from Montana (Mr. TESTER) was added as a cosponsor of S. 738, a bill to amend the Consumer Credit Protection Act to assure meaningful disclosures of the terms of rental-purchase agreements, including disclosures of all costs to consumers under such agreements, to provide certain substantive rights to consumers under such agreements, and for other purposes.

S. 773

At the request of Mr. ROCKEFELLER, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 773, a bill to ensure the

continued free flow of commerce within the United States and with its global trading partners through secure cyber communications, to provide for the continued development and exploitation of the Internet and intranet communications for such purposes, to provide for the development of a cadre of information technology specialists to improve and maintain effective cybersecurity defenses against disruption, and for other purposes.

S. 797

At the request of Mr. DORGAN, the name of the Senator from Minnesota (Mr. FRANKEN) was added as a cosponsor of S. 797, a bill to amend the Indian Law Enforcement Reform Act, the Indian Tribal Justice Act, the Indian Tribal Justice Technical and Legal Assistance Act of 2000, and the Omnibus Crime Control and Safe Streets Act of 1968 to improve the prosecution of, and response to, crimes in Indian country, and for other purposes.

S. 1055

At the request of Mrs. BOXER, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 1055, a bill to grant the congressional gold medal, collectively, to the 100th Infantry Battalion and the 442nd Regimental Combat Team, United States Army, in recognition of their dedicated service during World War II.

S. 1102

At the request of Mr. LIEBERMAN, the name of the Senator from Minnesota (Mr. FRANKEN) was added as a cosponsor of S. 1102, a bill to provide benefits to domestic partners of Federal employees.

S. 1144

At the request of Mr. JOHNSON, the name of the Senator from Idaho (Mr. RISCH) was added as a cosponsor of S. 1144, a bill to improve transit services, including in rural States.

S. 1158

At the request of Ms. STABENOW, the name of the Senator from Virginia (Mr. WARNER) was added as a cosponsor of S. 1158, a bill to authorize the Secretary of Health and Human Services to conduct activities to rapidly advance treatments for spinal muscular atrophy, neuromuscular disease, and other pediatric diseases, and for other purposes.

S. 1346

At the request of Mr. DURBIN, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 1346, a bill to penalize crimes against humanity and for other purposes.

S. 1859

At the request of Mr. ROCKEFELLER, the name of the Senator from Delaware (Mr. CARPER) was added as a cosponsor of S. 1859, a bill to reinstate Federal matching of State spending of child support incentive payments.

S. 1963

At the request of Mr. AKAKA, the names of the Senator from New Hampshire (Mrs. SHAHEEN) and the Senator from Alaska (Mr. BEGICH) were added as cosponsors of S. 1963, a bill to amend title 38, United States Code, to provide assistance to caregivers of veterans, to improve the provision of health care to veterans, and for other purposes.

S. 2106

At the request of Mrs. LINCOLN, the name of the Senator from New Hampshire (Mrs. SHAHEEN) was added as a cosponsor of S. 2106, a bill to require the Secretary of the Treasury to mint coins in commemoration of the 225th anniversary of the establishment of the Nation's first law enforcement agency, the United States Marshals Service.

S. 2920

At the request of Mr. LAUTENBERG, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of S. 2920, a bill to amend chapter 1 of title 23, United States Code, to condition the receipt of certain highway funding by States on the enactment and enforcement by States of certain laws to prevent repeat intoxicated driving.

S. 3019

At the request of Mr. LIEBERMAN, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 3019, a bill to authorize funding for, and increase accessibility to, the National Missing and Unidentified Persons System, to facilitate data sharing between such system and the National Crime Information Center database of the Federal Bureau of Investigation, to provide incentive grants to help facilitate reporting to such systems, and for other purposes.

S. 3058

At the request of Mr. DORGAN, the name of the Senator from Texas (Mr. CORNYN) was added as a cosponsor of S. 3058, a bill to amend the Public Health Service Act to reauthorize the special diabetes programs for Type I diabetes and Indians under that Act.

S. 3141

At the request of Mr. BINGAMAN, the name of the Senator from Alaska (Mr. BEGICH) was added as a cosponsor of S. 3141, a bill to amend the Internal Revenue Code of 1986 to provide special rules for treatment of low-income housing credits, and for other purposes.

S. 3201

At the request of Mr. UDALL of Colorado, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of S. 3201, a bill to amend title 10, United States Code, to extend TRICARE coverage to certain dependents under the age of 26.

S. 3205

At the request of Mr. SCHUMER, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 3205, a bill to amend the Internal Revenue Code of 1986 to provide that fees charged for baggage carried into the cabin of an aircraft are subject to the excise tax imposed on transportation of persons by air.

S. 3206

At the request of Mr. HARKIN, the names of the Senator from Pennsylvania (Mr. SPECTER) and the Senator from Delaware (Mr. KAUFMAN) were added as cosponsors of S. 3206, a bill to establish an Education Jobs Fund.

S. 3231

At the request of Mr. GRASSLEY, the name of the Senator from Kansas (Mr. BROWNBACK) was added as a cosponsor of S. 3231, a bill to amend the Internal Revenue Code of 1986 to extend certain tax incentives for alcohol used as fuel and to amend the Harmonized Tariff Schedule of the United States to extend additional duties on ethanol.

S. RES. 483

At the request of Mr. DURBIN, his name was added as a cosponsor of S. Res. 483, a resolution congratulating the Republic of Serbia's application for European Union membership and recognizing Serbia's active efforts to integrate into Europe and the global community.

STATEMENTS ON INTRODUCED AND JOINT RESOLUTIONS

By Mr. WYDEN (for himself and Mr. THUNE):

S. 3246. A bill to exclude from consideration as income under the Native American Housing Assistance and Self-Determination Act of 1996 amounts received by a family from the Department of Veterans Affairs for service-related disabilities of a member of the family; to the Committee on Indian Affairs.

Mr. WYDEN. Mr. President, today, my colleague Senator THUNE and I are introducing a piece of legislation that will correct a flaw in the Native American Housing and Self-Determination Act of 1996, NAHASDA, that could leave some disabled Native American Veterans having to choose between living with their families or having enough money to survive without them. No veteran should ever be faced with having to make that painful choice. Their service to our nation demands that they be treated with the greatest care, and this bill would help ensure that.

Native Americans serve in the U.S. military at a higher rate, per capita, than any other group. However, if a Native American veteran returns home with injuries suffered in battle, they face additional challenges because of the rules covering tribal lands.

Currently, NAHASDA counts veterans disability payments and survivor benefits as income when determining both eligibility for housing assistance and rental payments. Since virtually the only criteria for receiving public housing assistance on tribal lands is income—and the income levels on tribal lands are historically low—it does not take a large veterans disability payment to make them cross the threshold of being ''too wealthy'' to qualify for tribal housing. And in Indian Country,

alternatives to tribal housing are few and far between.

In addition, because disability payments are based on the level of disability, the larger the sacrifice a soldier has made, the less likely he or she will be able to return to tribal housing. This also means that a soldier who has been disabled could not move in with his family if they receive housing assistance without putting the entire family at risk of losing their housing if the payments would put them above 80 percent of area median income. No family should have to choose between a roof over their head and caring for a wounded son or daughter, father or mother. Nor should they have to choose between living on their native homelands or being forced to move off the reservation to care for this wounded veteran. Yet, this is the Catch-22 that wounded Native American veterans currently face, and it must be fixed.

Our bill would do that, in a very simple way. It would exempt veterans' disability and survivor benefits from counting as ''income'' for tribal housing programs. This does not affect the amount of money Congress appropriates for tribally designated housing entities. It would just allow those programs to serve Native American veterans who have been injured in combat, or the families of those killed on the battlefield. Our bill is a simple, budget-neutral way to fix a law written with the best of intentions. I urge the speedy passage of this bill.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 3246

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Indian Veterans Housing Opportunity Act of 2010''.

SEC. 2. EXCLUSION FROM INCOME.

Paragraph (9) of section 4 of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4103(9)) is amended by adding at the end the following new subparagraph:

''(C) Any amounts received by any member of the family as disability compensation under chapter 11 of title 38, United States Code, or dependency and indemnity compensation under chapter 13 of such title.''.

By Mr. UDALL of Colorado (for himself, Mr. LUGAR, Mr. BROWN of Massachusetts, Mrs. HAGAN, Mr. LEVIN, Mr. LIEBERMAN, Mr. MENENDEZ, Ms. KLOBUCHAR, Mrs. SHAHEEN, and Mr. UDALL of New Mexico):

S. 3247. A bill to amend the Fair Credit Reporting Act with respect to fair and reasonable fees for credit scores; to the Committee on Banking, Housing, and Urban Affairs.

Mr. UDALL of Colorado. Mr. President, earlier, I listened to the colloquy between the two members of the Banking Committee as they outlined the importance of true Wall Street accountability and the Wall Street reforms we will consider in the future.

I rise to speak about a particular opportunity we have as we consider this important and far-reaching reform legislation, and that is to discuss a piece of legislation I have introduced today called the Fair Access to Credit Scores Act of 2010.

Senator LUGAR and I joined along with eight other colleagues, to introduce this bill that would put consumers back in control of their finances. This bill takes a commonsense yet significant step in that direction by offering Americans annual access to their credit score when they access their annual free credit report.

Making the distinction between your score and your report, a report tells consumers what outstanding credit accounts they have open, such as student loans or credit cards, maybe a car or home loan. Unfortunately, it tells Americans little else. Often, they already know—they hopefully should know that information in their credit report. In contrast, your credit score, which our legislation would make available, is what banks and lenders and increasingly even employers have access to. It is critical information that each one of us needs to know.

Today, you and I would have to jump through hoop after hoop and ultimately have to pay to have access to our credit score, while banks and lenders can get this information more easily. Mr. President, I know you have been a strong advocate for fairness in America, and that is simply not fair.

In 2003, Congress enacted legislation that required the three major consumer credit reporting agencies to provide a free annual report to each one of us on a yearly basis. This was known as the FACT Act. It was an important step in ensuring that financial records of American consumers are accurate. You could cross-check, as a consumer, what was in your report.

Many of my constituents in Colorado have seen frequent television commercials and Internet advertisements, and they are led to believe that the annual credit report under law includes this credit score I am discussing. Unfortunately, we were all disappointed—I have been personally—to find out that you only have access to your credit report, not the critical information that helps you judge your creditworthiness. You actually have to purchase your score or subscribe to a credit-monitoring service that costs you up to $200 a year to receive it. There are some troubling cases that even go further, where consumers believe they are signing up for a free credit score, only to find out later that they have actually signed up for a costly monthly monitoring service instead. This is simply not fair. It is why the Consumer Federation of America and the Consumers Union support this legislation.

Your credit score is a critical piece of information that impacts your interest rates, your monthly payments on home loans, and it could be the difference between whether a child is able to afford college or not. As I alluded to earlier, this information is increasingly being used to decide whether you will be offered a job. When you apply for a job, your potential employer has access to that information, and you don't even know what it is. This is personal information, and the consumers themselves seem to be the only people who don't have easy access to it.

We are talking about empowering American consumers when we pass—and I know we will—Wall Street accountability legislation. We want to empower consumers to be able to shape their own financial futures and thereby the country's financial future. To do that, we have to have transparency.

When you have free access to your credit score, although that is a small part of the larger reforms we need, it addresses one of the fundamental inequities that pervade our current financial system. Put simply, the one-sided marketplace today is rigged to benefit large financial institutions at the expense of hard-working Americans who are struggling to support their families and save for retirement. Consumers continually find themselves on the losing end of this bargain.

With so much at stake, this legislation we filed today is a small step to help restore balance and put Americans back in charge of their financial health. My hope is that, as this Chamber considers the Wall Street accountability bill, we will consider adding this legislation as an amendment and restore a greater dose of fairness to consumers in Colorado, to the Presiding Officer's constituents, and to all the rest of our Nation.

Let me close by thanking a group of Senators who have joined me: Senators LUGAR, SCOTT BROWN, HAGAN, LEVIN, LIEBERMAN, KLOBUCHAR, MENENDEZ, SHAHEEN, and TOM UDALL. They have all joined me in putting consumers first by cosponsoring this commonsense, proconsumer legislation.

I ask each one of my colleagues as well to join me in supporting its passage.

By Mr. BINGAMAN (for himself, Mr. UDALL of Colorado, Mr. MCCAIN, and Mr. REID):

S. 3248. A bill to designate the Department of the Interior Building in Washington, District of Columbia, as the ''Stewart Lee Udall Department of the Interior Building''; to the Committee on Environment and Public Works.

Mr. BINGAMAN. Mr. President, last month our country lost a great American with the passing of Stewart Udall, who, among his many achievements, is probably best remembered for his accomplishments as Secretary of the Interior during the Presidencies of President Kennedy and President Johnson.

His lifetime of work to protect our public lands and his efforts to improve the quality of our environment are unequaled. Stewart Udall was instrumental in the passage of virtually all of our Nation's landmark environmental laws, including the Clean Air Act of 1963, the Wilderness Act of 1964, the Federal Water Pollution Control Act of 1965, the Endangered Species Act of 1966, the National Historic Preservation Act of 1966, the National Trails System Act of 1968, and the Wild and Scenic Rivers Act of 1968. Nearly half a century later, these laws remain the key protections for our Nation's land, air, and water. In addition, he oversaw significant additions to the National Park System and the National Wildlife Refuge System. Many years after he left office, he was a driving force behind the enactment of the Radiation Exposure Compensation Act of 1990.

In the 161-year history of the Department of the Interior, there have been many exceptional individuals who have served as Secretary of the Interior, and Stewart Udall certainly ranks among the best of those. In recognition of his lifetime of work pursuing the common good and protecting our Nation's public lands and waters and in particular his achievements as the Secretary of the Interior, today I am introducing legislation to designate the Department of the Interior Building in Washington, DC, as the ''Stewart Lee Udall Department of the Interior Building.'' I am pleased to have Senator MARK UDALL, Senator JOHN MCCAIN, and Senator HARRY REID, our majority leader, as cosponsors of this bill. Dedication of the Department of the Interior's headquarters here in Washington will be a small but fitting tribute to Stewart Udall's legendary accomplishments, many of which took place in that very building.

I know my colleague, Senator MARK UDALL, is here to also speak in support of this legislation. Let me defer to him, and then I will ask recognition again on a somewhat separate matter.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. UDALL of Colorado. Mr. President, I thank the Senator from New Mexico for his courtesy.

I rise in support of this legislation. I intend at some later date to spend additional time on the floor talking about my Uncle Stewart, who was a wonderful man, an uncle to me, but more than that, he was a mentor, he was a leader. In the last 12 years of his life after my father died, he really served as a second father to me; therefore, I feel as though I lost a second father recently.

I thank the Senator on behalf of at least my side of the family. I know my cousin TOM will, at the right time and in the right way, express his thanks as well.

My uncle was many things, but he was at his heart a student of the West. He was a son of the West. He always looked for the lessons that the landscapes and the people of the West could provide all of us.

I know the Senator from New Mexico knows of the many books he wrote. He wrote over half a dozen books. One of the books I took the most insight from was a book called ''The Founding Fathers and Mothers of the West.'' He pointed out in that book that people came to the West—the Presiding Officer will be interested in this—to find a new life. He continued in that vein by talking about the great western director of western movies, John Ford. He once asked John Ford if his movies portrayed the West as it was. Ford's answer was: No; they portrayed the West as it should have been, doggone it. My uncle's point was that the West was not settled by the gunfighters and those who had gotten into conflicts. The West was settled by those who came looking to create communities and to work together. It was the people standing on the wooden sidewalks watching the gunfights who in the end settled the West, established the West as we know the West today.

My uncle in particular had great affection and respect for the Native populations in the West. That led him to have great passion and even outrage about the way Native Americans had been treated. In his later years, as the Presiding Officer knows, he went to battle in the courts through his words in every form possible advocating justice and fair treatment for our Native American brothers and sisters. In our family, we characterized him as being outraged without being outrageous.

We are going to, obviously, miss him. I am going to miss his wise counsel. I will do everything I can to live by the credo he carried forward, I say to Senator BINGAMAN, which he believed deeply: We didn't inherit the Earth from our parents; we are borrowing it from our children. I think that is the fundamental lesson our uncle left with us. The inspiring step of the Senator from New Mexico to name the Interior Building after my uncle will help us keep that firmly in our view and keep committed to that purpose for our time on this Earth.

I thank the Senator from New Mexico for his graciousness. I look forward to this bill becoming the law of the land.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, I thank my colleague, Senator UDALL, for his very eloquent statement. Obviously, the Udall family has a great deal of which to be proud: his father's great public service, his uncle's great public service, and, of course, he is carrying on with that tradition, as is TOM UDALL, my colleague from New Mexico. We are very fortunate in this country to have the Udall family working hard to make this a better place.

I hope this legislation I have introduced today can become law soon. We will have that additional recognition for Stewart Udall and his contribution to the country.

By Mr. CARPER (for himself and Ms. COLLINS):

S. 3250. A bill to provide for the training of Federal building personnel, and for other purposes; to the Committee on Environment and Public Works.

Mr. CARPER. Mr. President, I rise today to introduce two pieces of legislation that I believe will help the Federal Government cut its energy bill, save taxpayers' money and benefit the environment. Today is Earth Day, when people are thinking about how they can take better care of our planet. Federal agencies need to do the same.

Also important, the last few years have underscored the need for our Nation to rethink its energy use. Constantly shifting energy costs and our Nation's severe economic problems have resulted in families, homeowners, and businesses all taking a hard look at how much they are spending, including for energy needs. Governments should be no different, and they are no different.

Over the past few months, my Subcommittee on Federal Financial Management, Government Information, Federal Services, and International Security held hearings to examine how the Federal Government can lead by example in being more energy efficient. We learned, among other things, that the Federal Government is the single largest energy user in the Nation.

In fiscal year 2008, the total energy consumption of Federal Government buildings and operations was roughly 1.5 percent of all energy consumption in the United States. The energy bill for the Federal Government that year was $24.5 billion. Of that $24.5 billion, over $7 billion was spent on energy to operate Federal buildings alone.

With a price tag that large, there are significant opportunities for savings. Today, I offer a series of proposals that I believe will allow the Federal Government to take better advantage of these opportunities.

The Government Accountability Office has noted that Federal agencies face a number of challenges in meeting their energy management goals. One of those is rapidly building and retrofitting our buildings with advanced technologies, without regard for the skills necessary to operate and maintain these facilities to their optimum efficiency.

The Federal Government has spent billions of dollars on technology and hardware to improve the energy efficiency of its buildings. However, if this significant investment is not safeguarded by well-trained individuals, we will never be able to achieve the biggest bang for our buck. New technology demands new skills. My legislation would better ensure that the individuals who manage our Federal facilities possess the knowledge they need to meet these demands.

The Federal Buildings Personnel Training Act of 2010, which I am introducing today along with Senator COLLINS, and Representatives CARNAHAN

and BIGGERT in the House, will ensure that the General Services Administration has all of the tools necessary to not only upgrade our infrastructure, but also guarantee that these buildings are properly maintained and operated at their highest performance levels. You wouldn't give a race car to an inexperienced driver and expect them to win the Indy 500. In the same way, we can't expect our Federal buildings to run at peak efficiency if we don't make sure our personnel have adequate training.

I am also introducing a second bill, the Improving Energy Efficiency and Renewable Energy Use By Federal Agencies Act of 2010.

Federal agencies are pursuing many ideas and technologies to reduce the amount of energy they consume, and adopt renewable energy such as solar panels on top of Federal buildings. These proven technologies have resulted in financial savings that have more than paid for the initial financial investment. This is in addition to the environmental and energy security benefits of reduced energy use.

In fact, earlier this year the Administration announced plans for Federal agencies to reduce its greenhouse gas pollution by 28 percent by 2020, representing between $8 billion and $11 billion in cost savings. These goals are part of a very useful and effective executive order signed last year directing agencies to not only devote more attention to energy reduction, but share their best ideas.

While the Administration's Executive Order, Federal Leadership in Environmental, Energy and Economic Performance, represents an important step forward, there is more we can do.

Federal agencies can make use of some creative financial tools where government partners with the private sector. For example, with Power Purchasing Agreements a Federal agency allows a company to use government land, for example an unused portion of military base, to build solar, wind or other renewable power production with private sector funding, and in exchange gives the Federal facility cheaper electricity. This means that governments can reduce the cost of its energy use and help clean up the environment by promoting renewable energy—all without having to spend a single taxpayer dollar. Not a bad way to do business.

Currently, DOD is more successful with Power Purchasing Agreements because their facilities are allowed to enter into longer term agreements, as compared to civilian agencies which are restricted to only 10 years. My bill will allow longer-term agreements for all agencies.

It is important to remember, the cleanest, most efficient—and cheapest—energy, is the energy we don't use. That is why I would like Federal agencies to quicken the pace of its efforts to implement energy efficiency measures. To help accomplish this, my bill establishes a $500 million revolving fund to provide financial support for Federal agency energy efficiency and renewable projects. This fund would increase the number of agency energy efficiency projects, such as new heating and cooling systems, which save on operations costs. Savings from the projects would be paid back into the fund over time, and eventually fund additional projects.

Other provisions of my bill adopt some good, common-sense ideas. For example, President Obama's fiscal year 2011 budget proposal outlined how the Department of Veterans Affairs is saving money by operating their computers more efficiently. Using new computers that use less energy, and software that automates when a computer is turned on and off, the agency plans to save around $32 million over the next 5 years. My bill would require other Federal agencies to consider and adopt steps similar to that of the Department of Veteran Affairs' successful example.

I am also interested in expanding cutting edge advanced metering technology throughout government. There's an old saying that goes, ''You can't manage, what you can't measure.'' It can easily be applied to energy use. At my recent hearings I learned that, with new digital technology, we can save energy and money by connecting facilities across an organization and monitoring buildings—and even parts of buildings and individual pieces of machinery—on their energy use in real-time. Wal-Mart uses this technology because they understand the financial savings it brings. From their headquarters in Bentonville, AR, they will know if a freezer door has been left open for too long at their store in Middletown, Delaware. The Federal Government should do the same so that building managers can make more effective decisions. The best part about deploying advanced metering is the fact that the investment pays for itself in less than a year.

As America's largest consumer of energy, Federal agencies can and should be good stewards of precious taxpayer dollars by using energy as efficiently as possible. The proposals contained in my two pieces of legislation will help the Federal Government lead by example, and demonstrate to the American people that energy efficiency efforts can pay real dividends in saving both money and the environment. I look forward to working with my colleagues and the Administration to get these two bills signed into law, and implement these important ideas.

Mr. President, I ask unanimous consent that the text of these two bills be printed in the RECORD.

There being no objection, the text of the bills were ordered to be printed in the RECORD, as follows:

S. 3250

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Federal Buildings Personnel Training Act of 2010''.

SEC. 2. TRAINING OF FEDERAL BUILDING PERSONNEL.

(a) IDENTIFICATION OF CORE COMPETENCIES.—Not later than 18 months after the date of enactment of this Act, and annually thereafter, the Administrator of General Services, in consultation with representatives of relevant professional societies, industry associations, and apprenticeship training providers, and after providing notice and an opportunity for comment, shall identify the core competencies necessary for Federal personnel performing building operations and maintenance, energy management, safety, and design functions to comply with requirements under Federal law. The core competencies identified shall include competencies relating to building operations and maintenance, energy management, sustainability, water efficiency, safety (including electrical safety), and building performance measures.

(b) DESIGNATION OF RELEVANT COURSES, CERTIFICATIONS, DEGREES, LICENSES, AND REGISTRATIONS.—The Administrator, in consultation with representatives of relevant professional societies, industry associations, and apprenticeship training providers, shall identify a course, certification, degree, license, or registration to demonstrate each core competency, and for ongoing training with respect to each core competency, identified for a category of personnel specified in subsection (a).

(c) IDENTIFIED COMPETENCIES.—An individual shall demonstrate each core competency identified by the Administrator under subsection (a) for the category of personnel that includes such individual. An individual shall demonstrate each core competency through the means identified under subsection (b) not later than one year after the date on which such core competency is identified under subsection (a) or, if the date of hire of such individual occurs after the date of such identification, not later than one year after such date of hire. In the case of an individual hired for an employment period not to exceed one year, such individual shall demonstrate each core competency at the start of the employment period.

(d) CONTINUING EDUCATION.—The Administrator, in consultation with representatives of relevant professional societies, industry associations, and apprenticeship training providers, shall develop or identify comprehensive continuing education courses to ensure the operation of Federal buildings in accordance with industry best practices and standards.

(e) CURRICULUM WITH RESPECT TO FACILITY MANAGEMENT AND OPERATION OF HIGH-PERFORMANCE BUILDINGS.—Not later than 18 months after the date of enactment of this Act, and annually thereafter, the Administrator, acting through the head of the Office of Federal High-Performance Green Buildings, and the Secretary of Energy, acting through the head of the Office of Commercial High-Performance Green Buildings, in consultation with the heads of other appropriate Federal departments and agencies and representatives of relevant professional societies, industry associations, and apprenticeship training providers, shall develop a recommended curriculum relating to facility management and the operation of high-performance buildings.

(f) APPLICABILITY OF THIS SECTION TO FUNCTIONS PERFORMED UNDER CONTRACT.—Training requirements under this section shall apply to non-Federal personnel performing building operations and maintenance, energy management, safety, and design functions under a contract with a Federal department or agency. A contractor shall provide training to, and certify the demonstration of core competencies for, non-Federal personnel in a

manner that is approved by the Administrator.

S. 3251

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Improving Energy Efficiency and Renewable Energy Use By Federal Agencies Act of 2010''.

SEC. 2. POWER PURCHASE AGREEMENT PROGRAM.

(a) DEFINITIONS.—In this section:

(1) COST-EFFECTIVE.—The term ''cost-effective'' means, with respect to a power purchase agreement entered into by the head of an executive agency for a Federal facility that is owned or controlled by the executive agency, that the 30-year average cost for the purchase of electricity under the power purchase agreement from 1 or more renewable energy generating systems is not greater than an amount equal to 110 percent of the cost of an equal quantity of electricity from the current electricity supplier of the Federal facility, taking into consideration each—

(A) applicable cost, including any cost resulting from—

(i) a demand charge;

(ii) an applicable rider;

(iii) a fuel adjustment charge; or

(iv) any other surcharge; and

(B) reasonably anticipated increase in the cost of the electricity resulting from—

(i) inflation;

(ii) increased regulatory requirements;

(iii) decreased availability of fossil fuels; and

(iv) any other factor that may increase the cost of electricity.

(2) EXECUTIVE AGENCY.—The term ''executive agency'' has the meaning given the term in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403).

(3) FEDERAL FACILITY.—The term ''Federal facility'' has the meaning given the term in section 543(f)(C) of the National Energy Conservation Policy Act (42 U.S.C. 8253(f)(C)).

(4) GOVERNMENT CORPORATION.—The term ''Government corporation'' has the meaning given the term in section 103 of title 5, United States Code.

(5) RENEWABLE ENERGY SOURCE.—The term ''renewable energy source'' has the meaning given the term in section 551 of the National Energy Conservation Policy Act (42 U.S.C. 8259).

(b) POWER PURCHASE AGREEMENT PROJECTS.—

(1) AUTHORIZATION OF HEADS OF EXECUTIVE AGENCIES.—In accordance with paragraphs (2) and (3), the head of each executive agency or a designee may establish 1 or more projects under which the head of the executive agency may offer to enter into power purchase agreements during the 10-year period beginning on the date of enactment of this Act for the purchase of electricity from 1 or more Federal facilities that are owned or controlled by the executive agency from renewable energy sources located at the Federal facility.

(2) COST-EFFECTIVE REQUIREMENT.—A head of an executive agency described in paragraph (1) may offer to enter into a power purchase agreement described in that paragraph only if the power purchase agreement is cost-effective.

(3) TERM OF POWER PURCHASE AGREEMENT.—Notwithstanding any other provision of law (including regulations), the term of a power purchase agreement described in paragraph (1) may not be longer than a period of 30 years.

(4) ALLOCATION OF INCREMENTAL COSTS.—Each head of an executive agency (including the Administrator of General Services) who enters into a power purchase agreement under paragraph (1) for the purchase of electricity at a Federal facility that is owned or controlled by the executive agency for distribution to 1 or more other executive agencies shall allocate, on an annual basis for the period covered by the power purchase agreement, the incremental cost or incremental savings of the power purchase agreement for the purchase of electricity at a Federal facility from renewable energy sources (as compared to the cost of electricity from the electricity supplier of the Federal facility) among each user of the Federal facility based on the proportion that—

(A) the electricity usage of the user of the Federal facility; bears to

(B) the aggregate electricity usage of all users of the Federal facility.

(c) POWER PURCHASE AGREEMENTS WITH MULTIPLE FEDERAL FACILITIES.—An executive agency may enter into an interagency agreement as part of a power purchase agreement that involves more than 1 Federal facility.

(d) NEGOTIATED RATE AS BASIS FOR DETERMINING COST EFFECTIVENESS OF FUTURE ENERGY EFFICIENCY OR RENEWABLE ENERGY PROJECTS.—An executive agency that enters into a power purchase agreement may not use the negotiated rate as a basis for determining the business case or economic feasibility of future energy efficiency or renewable energy projects.

(e) REGULATIONS.—The Secretary of Energy shall promulgate such regulations as are necessary to carry out this section.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as are necessary for each of fiscal years 2010 through 2019, to remain available until expended.

SEC. 3. FEDERAL FACILITY ENERGY EFFICIENCY AND RENEWABLE ENERGY PROJECTS FUND.

(a) ESTABLISHMENT.—There is established in the Treasury of the United States a revolving fund, to be known as the ''Federal Facility Energy Efficiency and Renewable Energy Projects Fund'' (referred to in this section as the ''Fund''), consisting of such amounts as are appropriated to the Fund under subsection (b).

(b) TRANSFERS TO FUND.—

(1) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Fund $500,000,000, to remain available until expended.

(2) LOAN REPAYMENTS.—There are appropriated to the Fund, out of funds of the Treasury not otherwise appropriated, amounts equivalent to loan amounts repaid and received in the Treasury under subsection (e).

(c) EXPENDITURES FROM FUND.—

(1) IN GENERAL.—Subject to paragraph (2), on request by the Secretary of Energy (referred to in this section as the ''Secretary''), the Secretary of the Treasury shall transfer from the Fund to the Secretary such amounts as the Secretary determines are necessary to provide assistance for energy efficiency and renewable energy projects carried out at Federal facilities in accordance with subsection (e).

(2) ADMINISTRATIVE EXPENSES.—An amount not exceeding 10 percent of the amounts in the Fund shall be available for each fiscal year to pay the administrative expenses necessary to carry out this section.

(d) TRANSFERS OF AMOUNTS.—

(1) IN GENERAL.—The amounts required to be transferred to the Fund under this section shall be transferred at least monthly from the general fund of the Treasury to the Fund on the basis of estimates made by the Secretary of the Treasury.

(2) ADJUSTMENTS.—Proper adjustment shall be made in amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

(e) FEDERAL FACILITY ENERGY EFFICIENCY AND RENEWABLE ENERGY PROJECTS FUND PROGRAM.—

(1) IN GENERAL.—The Secretary of Energy shall establish a Federal facility energy efficiency and renewable energy projects fund program under which the Secretary shall make loans to Federal agencies to assist the agencies in reducing energy use and related purposes, as determined by the Secretary.

(2) GUIDELINES FOR APPLICATIONS.—Not later than 180 days after the date of enactment of this Act, the Secretary shall issue guidelines for Federal agencies to submit applications for loans under this subsection.

(3) ELIGIBILITY.—Each Federal agency shall be eligible to submit an application for a loan under this subsection.

(4) LOAN AWARDS.—

(A) IN GENERAL.—The Secretary shall award loans under this subsection on a competitive basis.

(B) ALLOCATION.—The Secretary shall convene a committee of Federal agencies to determine allocation from the Fund to carry out this subsection after a competitive assessment of the technical and economic effectiveness of each application for a loan under this subsection.

(C) SELECTION.—In determining whether to provide a loan to a Federal agency for a project under this subsection, the Secretary shall consider—

(i) the cost-effectiveness of the project;

(ii) the amount of energy and cost savings anticipated to the Federal Government;

(iii) the amount of funding committed to the project by the agency;

(iv) the extent that a project will leverage financing from other non-Federal sources; and

(v) any other factor that the Secretary determines will result in the greatest amount of energy and cost savings to the Federal Government.

SEC. 4. INCENTIVES FOR FEDERAL AGENCIES FOR UTILITY ENERGY SAVINGS CONTRACTS.

Not later than 180 days after the date of enactment of this Act, the Secretary of Energy, in consultation with the Secretary of Defense and the Administrator of General Services, shall promulgate regulations that enable Federal agencies to retain the financial savings that result from entering into utility energy savings contracts.

SEC. 5. RENEWABLE ENERGY FACILITIES SURVEYS BY FEDERAL AGENCIES.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary of Energy, in consultation with the Secretary of Defense and the Administrator of General Services, shall promulgate regulations that establish appropriate methods and procedures for use by Federal agencies to implement, unless inconsistent with the mission of the Federal agencies or impracticable due to environmental constraints, the identification of all potential locations at Federal facilities of the agencies for renewable energy projects (including available land, building roofs, and parking structures).

(b) IDENTIFICATION OF POTENTIAL LOCATIONS.—Not later than 1 year after the date of the promulgation of regulations under subsection (a), each Federal agency shall complete the report of the agency that identifies potential locations described in subsection (a).

SEC. 6. ADOPTION OF PERSONAL COMPUTER POWER SAVINGS TECHNIQUES BY FEDERAL AGENCIES.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary of Energy, in consultation with the Secretary of Defense, the Secretary of Veterans Affairs, and the Administrator of General Services, shall issue guidance for Federal agencies to employ advanced tools allowing energy savings through the use of computer hardware, energy efficiency software, and power management tools.

(b) REPORTS ON PLANS AND SAVINGS.—Not later than 90 days after the date of the issuance of the guidance under subsection (a), each Federal agency shall submit to the Secretary of Energy a report that describes—

(1) the plan of the agency for implementing the guidance within the agency; and

(2) estimated energy and financial savings from employing the tools described in subsection (a).

SEC. 7. FEDERAL ENERGY MANAGEMENT AND DATA COLLECTION STANDARD.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary of Energy, in consultation with the Secretary of Defense, the Administrator of General Services, and relevant industry and nonprofit groups, shall develop and issue guidance on a Federal energy management and data collection standard.

(b) REQUIREMENTS.—Guidance described in subsection (a) shall include, at a minimum, a plan for the General Services Administration to publish energy consumption data for individual Federal facilities on a single, searchable website, accessible by the public at no cost to access.

SEC. 8. ADVANCED METERING BEST PRACTICES FOR ADVANCED METERING.

Section 543(e) of the National Energy Conservation Policy Act (42 U.S.C. 8253(e) is amended by striking paragraph (3) and inserting the following:

''(3) PLAN.—

''(A) IN GENERAL.—Not later than 180 days after the date on which guidelines are established under paragraph (2), in a report submitted by the agency under section 548(a), each agency shall submit to the Secretary a plan describing the manner in which the agency will implement the requirements of paragraph (1), including—

''(i) how the agency will designate personnel primarily responsible for achieving the requirements; and

''(ii) a demonstration by the agency, complete with documentation, of any finding that advanced meters or advanced metering devices (as those terms are used in paragraph (1)), are not practicable.

''(B) UPDATES.—Reports submitted under subparagraph (A) shall be updated annually.

''(4) BEST PRACTICES REPORT.—

''(A) IN GENERAL.—Not later than 180 days after the date of enactment of the Improving Energy Efficiency and Renewable Energy Use By Federal Agencies Act of 2010, the Secretary of Energy, in consultation with the Secretary of Defense and the Administrator of General Services, shall develop, and issue a report on, best practices for the use of advanced metering of energy use in Federal facilities, buildings, and equipment by Federal agencies.

''(B) UPDATING.—The report described under subparagraph (A) shall be updated annually.

''(C) COMPONENTS.—The report shall include, at a minimum—

''(i) summaries and analysis of the reports by agencies under paragraph (3) ;

''(ii) recommendations on standard requirements or guidelines for automated energy management systems, including—

''(I) potential common communications standards to allow data sharing and reporting;

''(II) means of facilitating continuous commissioning of buildings and evidence-based maintenance of buildings and building systems; and

''(III) standards for sufficient levels of security and protection against cyber threats to ensure systems cannot be controlled by unauthorized persons; and

''(iii) an analysis of—

''(I) the types of advanced metering and monitoring systems being piloted, tested, or installed in Federal buildings; and

''(II) existing techniques used within the private sector or other non-Federal government buildings.''.

SEC. 9. AVAILABILITY OF FUNDS FOR DESIGN UPDATES.

Section 3307, of title 40, United States Code, is amended—

(1) by redesignating subsections (d) through (h) as subsections (e) through (i). respectively; and

(2) by inserting after subsection (c) the following:

''(d) AVAILABILITY OF FUNDS FOR DESIGN UPDATES.—

''(1) IN GENERAL.—Subject to paragraph (2), for any project for which congressional approval is received under subsection (a) and for which the design has been substantially completed but construction has not begun, the Administrator of General Services may use appropriated funds to update the project design to meet applicable Federal building energy efficiency standards established under section 305 of the Energy Conservation and Production Act (42 U.S.C. 6834) and other requirements established under section 3312.

''(2) LIMITATION.—The use of funds under paragraph (1) shall not exceed 125 percent of the estimated energy or other cost savings associated with the updates as determined by a life-cycle cost analysis under section 544 of the National Energy Conservation Policy Act (42 U.S.C. 8254).''.

SEC. 10. CONTINUOUS COMMISSIONING WITHIN THE FEDERAL BUILDING STOCK.

(a) IN GENERAL.—Section 3312 of title 40, United States Code, is amended—

(1) by redesignating subsections (c) through (g) as subsections (d) through (h), respectively; and

(2) by inserting after subsection (b) the following:

''(c) CONTINUOUS COMMISSIONING WITHIN THE FEDERAL BUILDING STOCK.—

''(1) IN GENERAL.—Not later than 1 year after the date of enactment of the Improving Energy Efficiency and Renewable Energy Use By Federal Agencies Act of 2010, the Administrator and the Secretary of Energy shall incorporate commissioning and recommissioning standards (as those terms are defined in section 543(f) of the National Energy Conservation Policy Act (42 U.S.C. 8253(f))), for all real property that—

''(A) is more than $10,000,000 in value;

''(B) has more than 50,000 square feet; or

''(C) has energy intensity of more than $2 per square foot.

''(2) REGULATIONS.—Not later than 180 days after the date of enactment of the Improving Energy Efficiency and Renewable Energy Use By Federal Agencies Act of 2010, the Administrator and the Secretary of Energy shall promulgate such regulations as are necessary to carry out this subsection.''.

(b) CONFORMING AMENDMENTS.—Section 3312 of title 40, United States Code, is amended—

(1) in subsection (e)(1) (as redesignated by subsection (a)(1)), by striking ''and (c)'' and inserting ''and (d)'';

(2) in the first sentence of subsection (f) (as so redesignated), by striking ''and (c)'' and inserting ''and (d)''; and

(3) in subsection (g) (as so redesignated), by striking ''subsection (b), (c), or (d) or for failure to carry out any recommendation under subsection (e)'' and inserting ''subsection (b), (d), or (e) or for failure to carry out any recommendation under subsection (f)''.

SEC. 11. ELIMINATION OF STATE MATCHING REQUIREMENT FOR ENERGY EFFICIENCY UPGRADES AT GUARD AND RESERVE ARMORIES AND READINESS CENTERS.

Section 18236 of title 10, United States Code, is amended—

(1) in subsection (b), by striking ''A contribution'' and inserting ''Except as provided under subsection (e), a contribution''; and

(2) by adding at the end the following new subsection:

''(e) A contribution made at an armory or readiness center under paragraph (4) or (5) of section 18233(a) of this title for an energy efficiency upgrade shall cover—

''(1) 100 percent of the cost of architectural, engineering and design services related to the upgrade (including advance architectural, engineering and design services under section 18233(e) of this title); and

''(2) 100 percent of the cost of construction related to the upgrade (exclusive of the cost of architectural, engineering and design services).''.

SEC. 12. AUDIT; REPORT.

(a) AUDIT.—Not later than 180 days after the date of enactment of this Act, the Comptroller General of the United States shall carry out an audit to determine—

(1) the cost-effectiveness of energy savings performance contracts; and

(2) the ability of Federal agencies to manage effectively energy savings performance contracts.

(b) REPORT.—Not later than 90 days after the date described in subsection (a), the Comptroller General of the United States shall submit to the appropriate committees of Congress a report that contains a description of the results of the audit carried out under subsection (a).

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 495—RECOGNIZING THE CONTINUED IMPORTANCE OF VOLUNTEERISM AND NATIONAL SERVICE AND COMMEMORATING THE ANNIVERSARY OF THE SIGNING OF THE LANDMARK SERVICE LEGISLATION, THE EDWARD M. KENNEDY SERVE AMERICA ACT

Ms. MIKULSKI submitted the following resolution; which was referred to the Committee on Health, Education, Labor, and Pensions.

S. RES. 495

Whereas April 21, 2010, marks the first anniversary of the signing of the Serve America Act (Public Law 111–13; 123 Stat. 1460) (also known as the ''Edward M. Kennedy Serve America Act'');

Whereas the Serve America Act reauthorized the Corporation for National and Community Service and the programs of the Corporation through 2014, expanding opportunities for millions of people in the United States to serve this Nation;

Whereas the United States is experiencing a wave of new innovation and collaboration

to increase volunteerism, as social entrepreneurs try new approaches, technology increases access and expands service, and corporate volunteers provide pro bono skills to nonprofit organizations;

Whereas the Serve America Act increases volunteer opportunities for people of all ages in the United States, with a focus on disadvantaged youth, seniors, and veterans;

Whereas the Serve America Act promotes social innovation by supporting and expanding proven programs and builds the capacity of individuals, nonprofit organizations, and communities to volunteer; and

Whereas the Serve America Act leverages service to assist in meeting challenges in the areas of education, health, clean energy, veterans assistance, and economic opportunity: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes that service is of significant value to the United States; and

(2) commemorates the first anniversary of the Serve America Act (Public Law 111–13; 123 Stat. 1460) (also known as the ''Edward M. Kennedy Serve America Act''); and

(3) encourages every person in the United States to continue to answer the call to serve.

SENATE RESOLUTION 496—DESIGNATING APRIL 23, 2010, AS ''NATIONAL ADOPT A LIBRARY DAY''

Mr. WEBB (for himself, Mr. WARNER, Mr. COCHRAN, and Ms. SNOWE) submitted the following resolution; which was considered and agreed to:

S. RES. 496

Whereas libraries are an essential part of the communities and the national system of education in the United States;

Whereas the people of the United States benefit significantly from libraries that serve as an open place for people of all ages and backgrounds to make use of books and other resources that offer pathways to learning, self-discovery, and the pursuit of knowledge;

Whereas the libraries of the United States depend on the generous donations and support of individuals and groups to ensure that people who are unable to purchase books still have access to a wide variety of resources;

Whereas certain nonprofit organizations facilitate the donation of books to schools and libraries across the United States—

(1) to extend the joys of reading to millions of people of the United States; and

(2) to prevent used books from being thrown away;

Whereas, as of the date of agreement to this resolution, the libraries of the United States have provided valuable resources to individuals affected by the economic crisis by encouraging continued education and job training; and

Whereas several States that recognize the importance of libraries and reading have adopted resolutions commemorating April 23 as ''Adopt A Library Day'': Now, therefore, be it

Resolved, That the Senate—

(1) designates April 23, 2010, as ''National Adopt A Library Day'';

(2) honors the organizations that facilitate donations to schools and libraries;

(3) urges all people of the United States who own unused books to donate the unused books to local libraries;

(4) strongly supports children and families who take advantage of the resources provided by schools and libraries; and

(5) encourages the people of the United States to observe the day with appropriate ceremonies and activities.

SENATE RESOLUTION 497—DESIGNATING THE THIRD WEEK OF APRIL 2010 AS ''NATIONAL SHAKEN BABY SYNDROME AWARENESS WEEK''

Mr. DODD (for himself, Mr. ALEXANDER, Mr. JOHNSON, Mr. LIEBERMAN, and Mr. BAYH) submitted the following resolution; which was considered and agreed to:

S. RES. 497

Whereas the month of April has been designated ''National Child Abuse Prevention Month'' as an annual tradition initiated in 1979 by President Jimmy Carter;

Whereas the National Child Abuse and Neglect Data System reports that 772,000 children were victims of abuse and neglect in the United States in 2008, causing unspeakable pain and suffering for our most vulnerable citizens;

Whereas approximately 95,000 of those children were younger than 1 year old;

Whereas more than 4 children die each day in the United States as a result of abuse or neglect;

Whereas children younger than 1 year old accounted for over 40 percent of all child abuse and neglect fatalities in 2008, and children younger than 4 years old accounted for nearly 80 percent of all child abuse and neglect fatalities in 2008;

Whereas abusive head trauma, including the trauma known as Shaken Baby Syndrome, is recognized as the leading cause of death among physically abused children;

Whereas Shaken Baby Syndrome can result in loss of vision, brain damage, paralysis, seizures, or death;

Whereas medical professionals believe that thousands of additional cases of Shaken Baby Syndrome and other forms of abusive head trauma are being misdiagnosed or left undetected;

Whereas Shaken Baby Syndrome often results in permanent and irreparable brain damage or death of the infant and may result in extraordinary costs for medical care during the first few years of the life of the child;

Whereas the most effective solution for preventing Shaken Baby Syndrome is to prevent the abuse, and it is clear that the minimal costs of education and prevention programs may avert enormous medical and disability costs and immeasurable amounts of grief for many families;

Whereas prevention programs have demonstrated that educating new parents about the danger of shaking young children and how to protect their children from injury can significantly reduce the number of cases of Shaken Baby Syndrome;

Whereas education programs raise awareness and provide critically important information about Shaken Baby Syndrome to parents, caregivers, childcare providers, child protection employees, law enforcement personnel, health care professionals, and legal representatives;

Whereas National Shaken Baby Syndrome Awareness Week and efforts to prevent child abuse, including Shaken Baby Syndrome, are supported by groups across the United States, including groups formed by parents and relatives of children who have been injured or killed by shaking, whose mission is to educate the general public and professionals about Shaken Baby Syndrome and to increase support for victims and their families within the health care and criminal justice systems;

Whereas 20 States have enacted legislation related to preventing and increasing awareness of Shaken Baby Syndrome;

Whereas the Senate has designated the third week of April as ''National Shaken Baby Syndrome Awareness Week'' each year since 2005; and

Whereas the Senate strongly supports efforts to protect children from abuse and neglect: Now, therefore, be it

Resolved, That the Senate—

(1) designates the third week of April 2010 as ''National Shaken Baby Syndrome Awareness Week'';

(2) commends hospitals, childcare councils, schools, community groups, and other organizations that are—

(A) working to increase awareness of the danger of shaking young children;

(B) educating parents and caregivers on how they can help protect children from injuries caused by abusive shaking; and

(C) helping families cope effectively with the challenges of child-rearing and other stresses in their lives; and

(3) encourages the people of the United States—

(A) to remember the victims of Shaken Baby Syndrome; and

(B) to participate in educational programs to help prevent Shaken Baby Syndrome.

SENATE RESOLUTION 498—DESIGNATING APRIL 2010 AS ''NATIONAL CHILD ABUSE PREVENTION MONTH''

Ms. COLLINS (for herself and Mr. DODD) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 498

Whereas, in 2008, approximately 772,000 children were determined to be victims of abuse or neglect;

Whereas, in 2008, an estimated 1,740 children died as a result of abuse or neglect;

Whereas, in 2008, an estimated 80 percent of the children who died due to abuse or neglect were under the age of 4;

Whereas, in 2008, of the children under the age of 4 who died due to abuse or neglect, the majority were under the age of 1;

Whereas abused or neglected children have a higher risk in adulthood for developing health problems, including alcoholism, depression, drug abuse, eating disorders, obesity, suicide, and certain chronic diseases;

Whereas a National Institute of Justice study indicated that abused or neglected children—

(1) are 11-times more likely to be arrested for criminal behavior as juveniles; and

(2) are 2.7-times more likely to be arrested for violent and criminal behavior as adults;

Whereas an estimated 1/3 of abused or neglected children grow up to abuse or neglect their own children;

Whereas providing community-based services to families impacted by child abuse or neglect may be far less costly than—

(1) the emotional and physical damage inflicted on children who have been abused or neglected;

(2) providing to abused or neglected children services, including child protective, law enforcement, court, foster care, or health care services; or

(3) providing treatment to adults recovering from child abuse; and

Whereas child abuse or neglect has long-term economic and societal costs: Now, therefore, be it

Resolved, That the Senate—

(1) designates April 2010 as ''National Child Abuse Prevention Month'';

(2) recognizes and applauds the national and community organizations that work to

promote awareness about child abuse or neglect, including by identifying risk factors and developing prevention strategies;

(3) supports the proclamation issued by President Obama declaring April 2010 as ''National Child Abuse Prevention Month''; and

(4) should—

(A) increase public awareness of prevention programs relating to child abuse or neglect; and

(B) continue to work with the States to reduce the incidence of child abuse or neglect in the United States.

Ms. COLLINS. Mr. President, it is with a heavy heart that I rise today to submit a resolution recognizing Child Abuse Prevention Month. I am honored to be joined by a longtime advocate of children, Senator DODD, in turning a spotlight on the issue of child abuse and neglect in this country. Senator DODD and I share a common belief that children should be valued and nurtured by both their families and the larger family of humankind.

The effort to address child abuse transcends ideological and partisan lines. This is not a Democratic or Republican issue—this is an American issue—one that we can't wish away, but that we must face head on and work to eradicate.

Abuse of children occurs in all segments of our society, in rural, suburban, and urban areas and among all racial, ethnic, and income groups. According to the 2008 Child Maltreatment Study compiled by the U.S. Department of Health and Human Services, during 2008, an estimated 772,000 children were determined to be victims of abuse or neglect, and an estimated 1,740 children died as a result.

My home State of Maine is mourning the death of 15-month old Damien Lynn, who was allegedly murdered by his mother's boyfriend. Autopsy reports show that little Damien had broken bones and ribs, head and abdominal injuries, and a human bite mark on his right arm. It is in Damien's memory, and that of the thousands of children who are abused and neglected each year, that I come to the floor today.

The time has come for Americans to unite in an all-out effort to eradicate child abuse. Child Abuse Prevention Month is an opportunity for communities across the country to keep children safe, provide the support families need to stay together, and raise children and youth to be happy, secure, and stable adults.

To paraphrase Mahatma Gandhi, ''You can judge a society by how they treat their weakest members.'' This resolution is sad commentary that we have to do more to protect those who are in the dawn of life, the most vulnerable among us, our children.

SENATE RESOLUTION 499—SUPPORTING THE GOALS AND IDEALS OF WORLD MALARIA DAY, AND REAFFIRMING UNITED STATES LEADERSHIP AND SUPPORT FOR EFFORTS TO COMBAT MALARIA AS A CRITICAL COMPONENT OF THE PRESIDENT'S GLOBAL HEALTH INITIATIVE

Mr. FEINGOLD (for himself, Mr. WICKER, Mr. BROWN of Ohio, Mr. SPECTER, Mr. LUGAR, Mr. DURBIN, Mr. CARDIN, Mr. SANDERS, Mrs. GILLIBRAND, Mr. JOHNSON, and Mr. INHOFE) submitted the following resolution; which was considered and agreed to:

S. RES. 499

Whereas April 25th of each year is recognized internationally as World Malaria Day;

Whereas malaria is a leading cause of death and disease in many developing countries, despite being completely preventable and treatable;

Whereas, according to the World Health Organization, 35 countries, the majority of them in sub-Saharan Africa, account for 98 percent of global malaria deaths;

Whereas young children and pregnant women are particularly vulnerable and disproportionately affected by malaria;

Whereas malaria greatly affects child health, with estimates that children under the age of 5 account for 85 percent of malaria deaths each year;

Whereas malaria poses great risks to maternal health, causing complications during delivery, anemia, and low birth weights, with estimates that malaria infection causes 400,000 cases of severe maternal anemia and from 75,000 to 200,000 infant deaths annually in sub-Saharan Africa;

Whereas heightened national, regional, and international efforts to prevent and treat malaria over recent years have made measurable progress and have helped save hundreds of thousands of lives;

Whereas the World Health Organization's World Malaria Report 2009 reports that ''[i]n countries that have achieved high coverage of their populations with bed nets and treatment programmes, recorded cases and deaths due to malaria have fallen by 50%'';

Whereas the World Health Organization's World Malaria Report 2009 further states that ''[t]here is evidence from Sao Tome and Principe, Zanzibar and Zambia that large decreases in malaria cases and deaths have been mirrored by steep declines in all-cause deaths among children less than 5 years of age'';

Whereas continued national, regional, and international investment is critical to continue to reduce malaria deaths and to prevent backsliding in those areas where progress has been made;

Whereas the United States Government has played a major leadership role in the recent progress made toward reducing the global burden of malaria, particularly through the President's Malaria Initiative and the United States contribution to the Global Fund to Fight AIDS, Tuberculosis, and Malaria;

Whereas President Barack Obama said on World Malaria Day in 2009, ''It is time to redouble our efforts to rid the world of a disease that does not have to take lives. Together, we have made great strides in addressing this preventable and treatable disease... Together, we can build on this progress against malaria, and address a broad range of global health threats by investing in health systems, and continuing our work with partners to deliver highly effective prevention and treatment measures.'';

Whereas, under the new Global Health Initiative (GHI) launched by President Obama, the United States Government is pursuing a comprehensive, whole-of-government approach to global health, focused on helping partner countries to achieve major improvements in overall health outcomes through transformational advances in access to, and the quality of, healthcare services in resource-poor settings; and

Whereas recognizing the burden of malaria on many partner countries, GHI has set the target for 2015 of reducing the burden of malaria by 50 percent for 450,000,000 people, representing 70 percent of the at-risk population in Africa: Now, therefore, be it

Resolved, That the Senate—

(1) supports the goals and ideals of World Malaria Day, including the achievable target of ending malaria deaths by 2015;

(2) calls upon the people of the United States to observe World Malaria Day with appropriate programs, ceremonies, and activities to raise awareness and support to save the lives of those affected by malaria;

(3) recognizes the importance of reducing malaria prevalence and deaths to improve overall child and maternal health, especially in sub-Saharan Africa;

(4) commends the recent progress made toward reducing global malaria deaths and prevalence, particularly through the efforts of the President's Malaria Initiative and the Global Fund to Fight AIDS, Tuberculosis, and Malaria;

(5) welcomes ongoing public-private partnerships to research and develop more effective and affordable tools for malaria diagnosis, treatment, and vaccination;

(6) reaffirms the goals and commitments to combat malaria in the Tom Lantos and Henry J. Hyde United States Global Leadership Against HIV/AIDS, Tuberculosis, and Malaria Reauthorization Act of 2008 (Public Law 110–293);

(7) supports continued leadership and investment by the United States in bilateral and multilateral efforts to combat malaria as a critical part of the President's Global Health Initiative; and

(8) encourages other members of the international community to sustain and scale up their support and financial contributions for efforts worldwide to combat malaria.

AMENDMENTS SUBMITTED AND PROPOSED

SA 3729. Mr. COBURN proposed an amendment to the concurrent resolution H. Con. Res. 255, commemorating the 40th anniversary of Earth Day and honoring the founder of Earth Day, the late Senator Gaylord Nelson of Wisconsin.

TEXT OF AMENDMENTS

SA 3729. Mr. COBURN proposed an amendment to the concurrent resolution H. Con. Res. 255, commemorating the 40th anniversary of Earth Day and honoring the founder of Earth Day, the late Senator Gaylord Nelson of Wisconsin; as follows:

Strike the preamble and insert the following:

Whereas Gaylord Nelson, former United States Senator from Wisconsin, is recognized as one of the leading environmentalists of the 20th Century who helped launch an international era of environmental awareness and activism;

Whereas Gaylord Nelson grew up in Clear Lake, Wisconsin, and rose to national prominence while exemplifying the progressive values instilled in him;

Whereas Gaylord Nelson served with distinction in the Wisconsin State Senate from 1949 to 1959, as Governor of the State of Wisconsin from 1959 to 1963, and in the United States Senate from 1963 to 1981;

Whereas Gaylord Nelson founded Earth Day, which was first celebrated on April 22, 1970, by 20 million people across the United States, making the celebration the largest environmental grassroots event in history at that time;

Whereas Gaylord Nelson called on Americans to hold their elected officials accountable for protecting their health and the natural environment on that first Earth Day, an action which launched the Environmental Decade, an unparalleled period of legislative and grassroots activity that resulted in passage of 28 major pieces of environmental legislation from 1970 to 1980, including the Clean Air Act, the Clean Water Act, and the National Environmental Education Act;

Whereas Gaylord Nelson was responsible for legislation that created the Apostle Islands National Lakeshore and the St. Croix Wild and Scenic Riverway and protected other important Wisconsin and national treasures;

Whereas Gaylord Nelson sponsored legislation to ban phosphates in household detergents and he worked tirelessly to ensure clean water and clean air for all Americans;

Whereas in addition to his environmental leadership, Gaylord Nelson fought for civil rights;

Whereas Gaylord Nelson was a patriot, who as a young soldier honorably served 46 months in the Armed Forces during World War II, and then, as Senator, worked to ban the use of the toxic defoliant Agent Orange;

Whereas, in 1995, Gaylord Nelson was awarded the highest honor accorded civilians in the United States, the Presidential Medal of Freedom;

Whereas Gaylord Nelson's legacy includes generations of Americans who have grown up with an environmental ethic and an appreciation and understanding of their roles as stewards of the environment and the planet; and

Whereas Gaylord Nelson was an extraordinary statesman, public servant, environmentalist, husband, father, and friend, and who never let disagreement on the issues become personal or partisan:

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mrs. BOXER. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on April 22, 2010, at 9:30 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mrs. BOXER. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs, be authorized to meet during the session of the Senate on April 22, 2010, at 10 a.m. to conduct a hearing entitled ''China's Exchange Rate Policy and Trade Imbalances.''

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mrs. BOXER. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet during the session of the Senate on April 22, 2010, at 2:30 p.m. in room 253 of the Russell Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mrs. BOXER. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on April 22, 2010, at 10:30 a.m., to conduct a hearing entitled ''Promoting Global Food Security.''

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mrs. BOXER. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet, during the session of the Senate, to conduct a hearing entitled ''Meeting the Needs of the Whole Student'' on April 22, 2010. The hearing will commence at 10 a.m. in room 106 of the Dirksen Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON INDIAN AFFAIRS

Mrs. BOXER. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet during the session of the Senate on April 22, 2010, at 2:15 p.m. in Room 628 of the Dirksen Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mrs. BOXER. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate, on April 22, 2010, at 10 a.m., in SD–226 of the Dirksen Senate Office Building, to conduct an executive business meeting.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mrs. BOXER. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate, on April 22, 2010, at 3 p.m., in SD–226 of the Dirksen Senate Office Building, to conduct a hearing entitled ''Nominations.''.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON RULES AND ADMINISTRATION

Mrs. BOXER. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be authorized to meet during the session of the Senate on April 22, 2010, at 10 a.m., to conduct a hearing entitled ''Examining the Filibuster: History of the Filibuster 1789–2008.''

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mrs. BOXER. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on April 22, 2010, at 2:30 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

SPECIAL COMMITTEE ON AGING

Mrs. BOXER. Mr. President, I ask unanimous consent that the Special Committee on Aging be authorized to meet on April 22, 2010, from 2–5 p.m. in Dirksen 562 for the purpose of conducting a hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON FEDERAL FINANCIAL MANAGEMENT, GOVERNMENT INFORMATION, FEDERAL SERVICES, AND INTERNATIONAL SECURITY

Mrs. BOXER. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs' Subcommittee on Federal Financial Management, Government Information, Federal Services, and International Security be authorized to meet during the session of the Senate on April 22, 2010, at 3:30 p.m. to conduct a hearing entitled, ''The Future of the U.S. Postal Service.''

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON OCEANS, ATMOSPHERE, FISHERIES, AND COAST GUARD

Mrs. BOXER. Mr. President, I ask unanimous consent that the Subcommittee on Oceans, Atmosphere, Fisheries, and Coast Guard of the Committee on Commerce, Science, and Transportation be authorized to meet during the session of the Senate on April 22, 2010, at 10 a.m., in room 253 of the Russell Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT, THE FEDERAL WORKFORCE, AND THE DISTRICT OF COLUMBIA

Mrs. BOXER. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs' Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia be authorized to meet during the session of the Senate on April 22, 2010, at 10 a.m. to conduct a hearing entitled ''After the Dust Settles: Examining Challenges and Lessons Learned in Transitioning the Federal Government.''

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CASEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMEMORATING THE 40TH ANNIVERSARY OF EARTH DAY

Mr. CASEY. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H. Con. Res. 255, which was received from the House.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 255) commemorating the 40th anniversary of Earth Day and honoring the founder of Earth Day, the late Senator Gaylord Nelson of Wisconsin.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. LEVIN. Mr. President, today is the 40th anniversary of Earth Day, a day set aside to appreciate the environment. In 1970, Senator Gaylord Nelson from Wisconsin recognized the power of campus activism and established Earth Day as a way to highlight the environmental problems this Nation faced—air pollution from factories, water pollution from unregulated discharges, and toxic waste dumps. After Congress passed legislation to designate April 22 as Earth Day, Congress passed several bills to protect the environment including the Clean Water Acts, the National Wild and Scenic Rivers Act, the Federal Pesticides Act, the Clean Air Act, the Environmental Education Act, and the National Hiking Trails and the National Scenic Trails Acts.

Because Michigan is surrounded by four of the five Great Lakes, the problems plaguing the lakes have an enormous impact on Michigan. A generation ago, the Great Lakes were a huge reservoir of persistent toxic substances, but they have improved markedly since that time. The Environmental Protection Agency, EPA, estimates that the Great Lakes Critical Programs Act, which I sponsored in 1990, has reduced direct toxic water discharges by millions of pounds per year. In addition, since 2002, the EPA estimates that close to 900,000 cubic yards of contaminated sediment have been removed under the Great Lakes Legacy Act at 5 of the 31 U.S. ''Areas of Concern'' in the Great Lakes, thirteen of which are found in Michigan.

While the Great Lakes have made strides in recovering, historical problems still exist and new problems are on the horizon. There are still hundreds of fish advisories issued every year; the number of beach closings remains high; Lake Erie is once again experiencing a ''dead zone'' from high levels of phosphorus; and a new invasive species enters the Great Lakes about every 8 months. Last year, Congress provided $475 million for comprehensive Great Lakes restoration efforts.

Because of its industrial past, Michigan has faced some challenges with contaminated properties, including complications related to redevelopment. This is why I have also long been a supporter of brownfields redevelopment and smart growth efforts, which connect environmental goals with economic and community development objectives. In 1999, I joined my former colleague, Senator Jim Jeffords to form the Senate Smart Growth Task Force. The task force serves as a forum for Senators interested in sustainable and sensible growth, and has supported locally driven, federally supported smart growth practices.

Supporting and enjoying Michigan's parks and trails are also important aspects of this Earth Day celebration. Last year, I helped establish the Beaver Basin area as Wilderness at Pictured Rocks National Lakeshore and I am currently working on another Wilderness designation in the Sleeping Bear Dunes National Lakeshore. It is important for the public to have access to these areas so they can enjoy magnificent vistas, quiet streams, freshwater lakes, forests and prairies, and other natural beauty. To promote access and conservation, I have also worked to improve the North Country National Scenic Trail, which runs through Michigan, by helping to provide ''willing seller authority'' to help the trail be completed more quickly. When completed, the trail will span seven States and roughly 4,600 miles, approximately 1,000 miles of which will be located in Michigan, preserving critical outdoor recreational opportunities while providing a boost to the local economies along the trail.

Michigan is blessed to have so many natural resources. It is important that we recognize that we are just temporary stewards and that we protect and restore our resources for current and future generations.

Mr. LEAHY. Mr. President, today our Nation marks the 40th anniversary of Earth Day. For four decades, Americans have joined together on April 22 to celebrate our environment and to commit ourselves to fostering a healthier world. What Senator Gaylord Nelson began as a grassroots response to widespread environmental degradation in the 1970s has grown to become the foundation of the modern environmental movement and an annual recognition of Earth Day. For 40 years, Americans have used this day to organize events and participate in activities to draw attention to environmental issues and to promote environmental awareness and reform. Today, on the 40th anniversary of Earth Day, we can be proud of the many steps we have taken to clean up the environment. With the hard work and dedication of many, we have made progress. But there is more work to be done and we are facing many new threats.

Now for the first time since the passage of the landmark environmental laws of the 1970s, we are close to making significant strides to address environmental, climate, and energy-related issues. Bipartisan legislation is being developed in both the House of Representatives and the Senate, and significant steps have been taken already by this administration to ease the impact of human activities on the natural world, for our benefit, and for the benefit of generations to come. We do not have to choose between creating jobs and protecting the environment or between jobs and solving climate change. The economy of the 21st century will be built on infrastructure powered by clean energy, and, as Gaylord Nelson once wrote, ''all economic activity depends upon the . . . air, water, soil, forest, minerals, wetlands, rivers, lakes, oceans, wildlife habitat, and scenic beauty.'' These, he said, ''are the accumulated capital resources of a nation. Take them away and what you have left is a wasteland.''

Today, as the world pauses to consider the awe-inspiring power of our choices, let us reflect on what we stand to lose if we fail to act and what we stand to gain if we make the commitment to improve the air, water, and land upon which we depend. It is clear that Earth Day is not about the next government proclamation or regulation; this day is about the actions of individuals the amazing power of one person to accomplish change.

The threats to our planet are global; they are broad and overwhelming. But they are also very personal. The choices we make today will shape our world for generations to come. Though it may seem improbable to suggest that each person has the power to make a change, in saving our planet and improving our communities, it is certainly true.

It is estimated that by the year 2050, 40 years from now, the global population will be 9.4 billion people, adding more strain to our ecosystems. If personal responsibility for the Earth is truly as simple as conserving water, choosing public transportation or carpooling whenever possible, making your home more energy efficient, buying local sustainably produced food, recycling and reusing goods, there is little reason for any of us to deny our individual power to bring about change.

It is all too easy to imagine that the problems people currently face are a world away—across an ocean, on other continents. It is too easy to imagine problems such as a lack of clean water, vicious storms, and insufficient food supplies as not our own. I know that when it comes to the future of the Earth, the continent that seems so removed could just as easily be my backyard. On this 40th Earth Day, I am proud to call Vermont, the Green Mountain State, my home, and Vermont has been a leader in helping to show the way forward in protecting the Earth.

As we celebrate the 40th anniversary of Earth Day, each of us can renew our commitment to our planet—our home. We can use our power as individuals to work together toward a cleaner environment and a healthier planet. As part of the legacy we leave for our children and our grandchildren, let them enjoy a society that is secure in its commitment to a healthy and environmentally sound future. On this 40th anniversary of Earth Day, while we remember the pioneering spirit of Gaylord Nelson, we must honor his legacy and continue turning his words into action.

Mr. KOHL. Mr. President, today I rise to recognize one of our most prominent Wisconsinites, Gaylord Nelson, the founder of Earth Day.

On April 22, 1970, 20 million Americans paused for a day to celebrate our planet and press for the urgent actions needed to preserve and protect it. As we observe this 40th anniversary of the first Earth Day, we once again reflect on the necessity of a clean and safe environment, celebrate the successes of the last four decades, and consider the long way we still must go to achieve the goals laid out that day.

In Wisconsin, we also stop to remember and honor one of our most prominent citizens.

Earth Day was born out of the passion of Gaylord Nelson. His life was one of service from the Pacific theater during World War II, to the State House as a State Senator and Governor, and to Washington, DC where he served Wisconsin as a U.S. Senator for nearly 20 years.

When Gaylord came to Washington, he did so with a mission to bring environmental causes to the forefront of the national debate. He believed that the cause of environmentalism needed as much attention as national defense. For his first years in the Senate, his cause was lonely. In 1966, his bill to ban the pesticide DDT garnered no cosponsors.

Gaylord knew that only with the grassroots support of regular Americans, could the environmental agenda rise to prominence. His idea for Earth Day came from the student teach-ins of the 1960s, but his cause inspired people across boundaries of age, race and location. This year, more than one billion people around the world will come together in the same way they did 40 years ago.

In a speech on that historic day in 1970, Gaylord noted that his goal was not just one of clean air and water, but also ''an environment of decency, quality and mutual respect for all other human beings and all other living creatures.'' He told the crowd that America could meet the challenge through our technology. The unanswered question was, he said, ''Are we willing?''

That question was answered with a resounding yes. That year saw the creation of the Environmental Protection Agency and the passage of the Clean Air Act. In 1972, 6 years after Gaylord Nelson stood alone on his proposed DDT ban, its use was ended. Later years would bring better protection of drinking water, emissions and efficiency standards for cars, programs to cleanup brownfields sites, and the protection and preservation of our forests, rivers, mountains and oceans.

Despite that progress and I imagine Gaylord would be the first to note this we still have much work ahead of us. We must use this anniversary to commit to another environmental decade. The needs of 40 years ago cleaner water, cleaner air, more protection of our lands are still here, but the next challenge we must face is climate change.

From lower lake levels, to more invasive species, the consequences of unchecked climate change could be devastating to the people of Wisconsin. Climate change isn't just a threat, it is also an opportunity. Structured correctly, the solutions to slowing climate change can also speed up our economic recovery.

Remarkable research and development is happening today in Wisconsin on products for cleaner water, advanced battery technology, and using waste from farms and forests to make advanced biofuels. We have companies developing products to harness the power of the sun to replace traditional interior lighting, retrofitting heavy-duty trucks into hybrids, and manufacturing energy-efficient hot water heaters.

In Congress, legislative work to address climate change is ongoing. With the right mixture of requirements and incentives, we can achieve a policy that reduces our dependence on foreign oil, cuts greenhouse gas emissions, lowers prices at the pump and on the electricity bill, and creates good-paying jobs that cannot be outsourced.

We do not have to choose between the environment and the economy, between jobs and solving climate change. Gaylord Nelson made this point over and over again. He once wrote that ''all economic activity depends upon the air, water, soil, forest, minerals, wetlands, rivers, lakes, oceans, wildlife habitats, and scenic beauty.'' These, he said, ''are the accumulated capital resources of the nation. Take them away and what you have left is a wasteland.''

On this 40th anniversary of Earth Day, while we remember the pioneering sprit of Gaylord Nelson, we must honor his legacy by turning words into action.

Ms. SNOWE. Mr. President, 40 years ago, Senator Gaylord Nelson attempted to bring attention to a degraded environment through a day dedicated to our planet. On April 22, 1970, environmental issues, as they are today, were challenging oxygen levels in the Androscoggin River in my great state of Maine frequently reached zero during the summer, resulting in the death of nearly all fish and other aquatic life in the river and carbon monoxide and ozone emissions significantly degraded our country's air quality. The environmental, economic, and personal costs of a failure to recognize the benefits of a healthy environment had reached a tipping point for many American citizens who demanded action both through greater awareness of personal environmental decisions and through new public laws. Millions of Americans, as Senator Nelson said, ''organized themselves'' to not only protest the degradation of our environment, but also to educate each other on personal steps to reduce waste, increase recycling, and together improve the condition of environment around us.

Four decades later, Earth Day serves as a consequential reminder of what we have achieved since 1970, and what we still have left to accomplish, especially as we evaluate the current state of our environment. In that light, on this Earth Day, as the ranking member of Oceans, Atmosphere, Fisheries, and Coast Guard, I held a hearing on the threat of acidification on the largest ecosystems of the world, our oceans. And while the expert witnesses outlined the daunting hurdles of this 21st century challenge to our lobster industry and the beautiful coral reefs of the world, it is encouraging at the same time to reflect upon the past challenges we've met that seemed insurmountable.

In 1970, there were less than 50 bald eagle nesting pairs in Maine, today there are at least 477. This extraordinary increase came to fruition through a combination of the federal banning of DDT and a concerted effort by Mainers who volunteered to track our sacred national symbol and conserve its habitat. Furthermore, just last year, the Commissioner of the Maine Department of Inland Fisheries and Wildlife remarkably and thankfully was able to recommend the removal of the Bald Eagle from Maine's list of Endangered and Threatened Species. It was a combination of dedicated attention by Mainers as well as public policies that made this success a reality. And in Maine's iconic rivers and waterways fish are returning and our air quality has improved.

Nationally, for nearly 10 years, I have been pleased to join forces with my good friend and colleague, Senator DIANNE FEINSTEIN, to implement technology available today and raise fuel economy standards for our Nation's automobile fleet. And finally, in 2007 we passed legislation that will cut air pollution, reduce our consumption of foreign oil, and save money at the gas pump which will be of benefit to everyone, especially those in the rural parts of my state. And earlier this month, these rules were finalized and will save 1.8 billion barrels of oil over the life of cars and trucks sold between the 2012 and 2016 model years. This welcomed and long overdue advancement will reduce greenhouse gas emissions from our vehicles by 21 percent by 2030 and represents the most significant effort so far to combat climate change.

When we commemorate the 50th anniversary of Earth Day in just 10 years from now, let it be said that in 2010, we made great strides in improving our energy efficiency in our homes and offices, we reduced the number of miles that we drive on a weekly basis, we mitigated carbon dioxide emissions, and we reduced the amount of oil we import. Above all, let us hope we can look back and say we were able to forge comprehensive energy legislation that spoke not just to our goals for protecting the environment and harnessing new sources for energy, for ensuring greater not lesser energy

independence, but that reflected once again the hallmark vision, ingenuity, and can-do spirit that have always driven this great land for whom no task is too daunting and no adversity too steep.

Mr. BROWN of Ohio. Mr. President, earlier today—the 40th Anniversary of Earth Day—on the grounds of the U.S. Capitol, I test drove the energy-efficient, fuel cell-powered Chevy Cruze.

Across Ohio, next-generation fuel-efficient vehicles are being built. GM recently announced that its plant in Lordstown, OH—near Youngstown in Trumball County—would bring back a third shift of workers to the assembly line to build the Cruze.

Twelve hundred jobs are expected to be created building this new line of fuel-efficient cars that will reduce our dependence on foreign oil and reduce the pollution of our air.

Forty years ago, many were hard-pressed to see how environmental and economic objectives could coexist.

The Cuyahoga River burned in Cleveland and oil spills marred the beaches of Santa Barbara.

With Lake Erie dying, Americans demanded an end to the polluted air and water that threatened the public health and safety of our Nation.

Such tragedies served as catalysts that established the Environmental Protection Agency, EPA, passed the Clean Air and Clean Water Acts, and formed a public and political conscience to safeguard our environment.

Today, the Cuyahoga River—41 years after the fire—is cleaner and healthier; more than 60 different fish species are thriving, and countless families are again enjoying its natural beauty.

The modern environmental movement was marked by the efforts of citizens demanding that their government protect our health by protecting our environment.

Like so many times throughout our Nation's history, citizen activism served as vehicle for change.

The 1960s, the third progressive era of the 20th century, was defined by passage of Medicare and Medicaid, the Higher Education Act, the Voting Rights Act, the Elementary and Secondary Education Act, and the Civil Rights Act.

Rachel Carson's 1962 ''Silent Spring'' helped the environmental movement educate elected officials and industry leaders about threats to human safety and the importance of environmental sustainability.

U.S. Senator Gaylord Nelson of Wisconsin persuaded President Kennedy to raise the importance of the conservation through a 5-day, 11 State tour in September 1963.

Senator Nelson took the energy of that tour and found it mirrored across the country in the public's desire for cleaner air and water.

Today, we celebrate Senator Nelson's vision of Earth Day—how his teach-ins and grassroots plea translated the public's concern for the environment into political action.

On April 22, 1970, after years of planning, Earth Day activities stretched from college campuses, to city parks, to community halls across the country.

That citizen call to action spurred decades worth of environmental protections that have improved the health of our Nation's air, streams, lakes, and rivers.

Today, Earth Day is celebrated around the world. And today, our college campuses are once again spurring our Nation's environmental innovation.

In northeastern Ohio, Oberlin College built one of the Nation's first—and at the time the largest—solar-powered building in the Nation. The college is also working with the city of Oberlin to develop green spaces and energy efficient living.

Baldwin Wallace has one of the Nation's only academic programs strictly devoted to sustainability practices.

Case Western is partnering with the Cleveland Foundation to build the world's first wind turbines in fresh water.

In northwestern Ohio, the University of Toledo's Clean and Alternative Energy Incubator has helped entrepreneurs and business make Toledo a national leader in solar energy jobs.

Bowling Green State University has the first and largest commercial scale wind farm in Ohio and the Midwest.

In Central Ohio, the Ohio State University is partnering with Battelle and Edison Welding to develop cutting-edge advanced alternative energy sources.

In southern Ohio, Ohio University is conducting a full-scale wind-data collection project in Appalachia to identify the best wind-energy resources within a 2,000-square-mile 7-county region.

And just this week the University of Cincinnati was named one of the greenest universities in the country.

Across Ohio, from Youngstown State University to Akron University to the University of Dayton and Stark State Community College, Ohio's campuses continue to be a breeding ground of innovation.

The activism and expertise of our students and entrepreneurs mark tremendous progress toward a more sustainable environment.

It is a progress that has led to the largest investment in clean energy and environmental sustainability in our Nation's history.

The American Recovery and Reinvestment Act is making historic investments to make our water and sewer systems safer, our clean energy sources more affordable and available.

And Ohio's history of manufacturing excellence and cutting edge entrepreneurs is leading the Nation in Recovery Act funds used for clean energy.

For four decades, the environmental movement has made clear that without action, we face dangerous consequences. We risk the health of citizens, the viability of our coastal areas, and the productivity of our State's farms, forests, and fisheries.

We risk our long-term economic and national security.

Yet no longer do environmental and economic objectives conflict with each other. No longer do we needlessly pick winners and losers among regions, workers, and industries.

We have seen how despite our population growing by 50 percent in the past 40 years and the number of cars on the road having doubled over that same time, our air is 60 percent cleaner than at the time of the first Earth day in 1970, all while our economy has grown like no other in the history of the world.

Done right, our Nation can become energy independent, improve its global competitiveness, and create new jobs and technologies for our workforce.

As we plant the seeds for economic growth—for new jobs in new industries—we are also planting the seeds for a cleaner, more sustainable environment.

And that is what Earth Day represents—for workers making the Cruze in Lordstown or activists continuing to push for a cleaner environment.

Earth Day reminds us to call upon our history of innovation and perseverance to usher in a new era of prosperity for our Nation and sustainability for our plant.

Mr. CASEY. Mr. President, I rise today to mark the 40th anniversary of Earth Day. Started in 1970 by Wisconsin's Senator Gaylord Nelson as an environmental teach-in, Earth Day has become a global event. More than 20 million people participated in the first Earth Day and that number has grown to over 500 million in 175 countries.

Since the first Earth Day, the United States has made significant strides in improving the quality of our environment—our air, our water, our land, and our natural resources. The days of having to turn on street lights in downtown Pittsburgh at noon because of the pollution emitted by coal plants, steel mills, and other industries are long gone.

No longer does the Cuyahoga River in Ohio catch fire due to the uncontrolled discharge of oil and other pollutants. Long gone too is the mining of coal and other minerals without regard to the impact on land or water. And today, one can hike through Yellowstone National Park or the Upper Peninsula of Michigan and hear the howling of wolves, a species that was almost completely wiped out in the lower 48 States. These are just a few examples of how our Nation has embraced the tenants of environmental awareness put forth on that first Earth Day in 1970.

Let me relate to you another story of our Nation's environmental progress that is a source of particular pride for Pennsylvanians. Rachel Carson is considered one of the pioneers of the environmental movement in the United States. Ms. Carson was born in 1907 and grew up on a small family farm near Springdale in western Pennsylvania,

went to the Pennsylvania College for Women in Pittsburgh, which later became Chatham College, and completed her M.A. in zoology at Johns Hopkins University. She began her career as a biologist with what was then the U.S. Bureau of Fisheries.

Her seminal work in 1962, Silent Spring, brought to the forefront the dangers of DDT and other pesticides. DDT was a major cause of decline in the population of birds of prey, including the peregrine falcon. Because of the efforts of Ms. Carson and others, DDT was eventually banned from use in the United States in 1972. Today, peregrine falcons have returned to much of their former range, including a pair of falcons that have been nesting on the Pennsylvania Department of Environmental Protection office tower in Harrisburg, which fittingly, is named the Rachel Carson Building.

Ms. Carson's call to action on the environment was also a driving force behind a 1972 amendment to the Pennsylvania Constitution clearly articulates the right of Pennsylvania's citizens to clean air, pure water, and the preservation of the natural, scenic, historic and esthetic values of the environment, and ensuring these rights to generations yet to come.

The first Earth Day was also a major impetus for our Nation to move forward with a myriad of Federal legislation—including the Clean Water Act, Clean Air Act, Surface Mining Control and Reclamation Act, and the Endangered Species Act—that provided the regulatory framework for America to be a world leader in environmental stewardship.

Just as importantly, we have seen since the first Earth Day that environmental protection can go hand-in-hand with economic growth. According to US EPA, since 1980, total emissions of six principal air pollutants—carbon monoxide, lead, nitrogen oxides, volatile organic compounds, particulate matter, and sulfur dioxide—decreased by 54 percent.

And during this same period, gross domestic product, GDP, increased by more than 126 percent while the U.S. population grew by 34 percent, clearly demonstrating that we can maintain a strong, robust economy while at the same time protecting and promoting a safe and healthy environment for all Americans.

Today, as a nation, we need to applaud the accomplishments we have made since the first Earth Day in improving the quality of our air, water, and land. But we also need to acknowledge that the task of protecting our environment is far from complete.

The remaining challenges are many. Nutrient pollution is still a concern for the Chesapeake Bay and other waterways. Mercury from large stationary sources still threatens the health of our Nation's vulnerable population of infants and pregnant woman. And many of our urban areas still exceed national standards for air quality.

But the most daunting environmental challenge today is climate change. The scientific evidence about the threat of climate change cannot be disputed. We must move forward with climate and energy legislation that will put us on a path that ends our unsustainable reliance on foreign energy. A path that will create new, clean energy jobs and that will regain our competitive edge over countries like China, which is out-investing us and out-innovating us when it comes to new energy technologies. A path that regains control of our environment, our economy, and our national security.

Let me close with a quote from Rachel Carson. It goes, ''Those who contemplate the beauty of the earth find reserves of strength that will endure as long as life lasts.'' So, as we celebrate Earth Day today, let us all take a moment to consider the beauty and wonder of the natural world around us.

And let us use the strength we take away from these moments to continue to preserve and protect our Nation's rich natural history and environment for our children and grandchildren. So that future generations will always have a clean environment, a robust economy, and a secure Nation.

Mr. CASEY. Mr. President, I ask unanimous consent that the concurrent resolution be agreed to; that a Coburn substitute amendment to the preamble be agreed to; the preamble, as amended, be agreed to; the motions to reconsider be laid upon the table, with no intervening action or debate, and that any statements relating to the measure be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (H. Con. Res. 255) was agreed to.

The amendment (No. 3729) was agreed to, as follows:

Strike the preamble and insert the following:

Whereas Gaylord Nelson, former United States Senator from Wisconsin, is recognized as one of the leading environmentalists of the 20th Century who helped launch an international era of environmental awareness and activism;

Whereas Gaylord Nelson grew up in Clear Lake, Wisconsin, and rose to national prominence while exemplifying the progressive values instilled in him;

Whereas Gaylord Nelson served with distinction in the Wisconsin State Senate from 1949 to 1959, as Governor of the State of Wisconsin from 1959 to 1963, and in the United States Senate from 1963 to 1981;

Whereas Gaylord Nelson founded Earth Day, which was first celebrated on April 22, 1970, by 20 million people across the United States, making the celebration the largest environmental grassroots event in history at that time;

Whereas Gaylord Nelson called on Americans to hold their elected officials accountable for protecting their health and the natural environment on that first Earth Day, an action which launched the Environmental Decade, an unparalleled period of legislative and grassroots activity that resulted in passage of 28 major pieces of environmental legislation from 1970 to 1980, including the Clean Air Act, the Clean Water Act, and the National Environmental Education Act;

Whereas Gaylord Nelson was responsible for legislation that created the Apostle Islands National Lakeshore and the St. Croix Wild and Scenic Riverway and protected other important Wisconsin and national treasures;

Whereas Gaylord Nelson sponsored legislation to ban phosphates in household detergents and he worked tirelessly to ensure clean water and clean air for all Americans;

Whereas in addition to his environmental leadership, Gaylord Nelson fought for civil rights;

Whereas Gaylord Nelson was a patriot, who as a young soldier honorably served 46 months in the Armed Forces during World War II, and then, as Senator, worked to ban the use of the toxic defoliant Agent Orange;

Whereas, in 1995, Gaylord Nelson was awarded the highest honor accorded civilians in the United States, the Presidential Medal of Freedom;

Whereas Gaylord Nelson's legacy includes generations of Americans who have grown up with an environmental ethic and an appreciation and understanding of their roles as stewards of the environment and the planet; and

Whereas Gaylord Nelson was an extraordinary statesman, public servant, environmentalist, husband, father, and friend, and who never let disagreement on the issues become personal or partisan:

The preamble, as amended, was agreed to.

SUPPORTING GOALS AND IDEALS OF WORLD MALARIA DAY

Mr. CASEY. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 499, submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 499) supporting the goals and ideals of World Malaria Day, and reaffirming United States leadership and support for efforts to combat malaria as a critical component of the President's Global Health Initiative.

There being no objection, the Senate proceeded to consider the resolution.

Mr. CASEY. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table, with no intervening action or debate, and that any statements relating to the resolution be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 499) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 499

Whereas April 25th of each year is recognized internationally as World Malaria Day;

Whereas malaria is a leading cause of death and disease in many developing countries, despite being completely preventable and treatable;

Whereas, according to the World Health Organization, 35 countries, the majority of

them in sub-Saharan Africa, account for 98 percent of global malaria deaths;

Whereas young children and pregnant women are particularly vulnerable and disproportionately affected by malaria;

Whereas malaria greatly affects child health, with estimates that children under the age of 5 account for 85 percent of malaria deaths each year;

Whereas malaria poses great risks to maternal health, causing complications during delivery, anemia, and low birth weights, with estimates that malaria infection causes 400,000 cases of severe maternal anemia and from 75,000 to 200,000 infant deaths annually in sub-Saharan Africa;

Whereas heightened national, regional, and international efforts to prevent and treat malaria over recent years have made measurable progress and have helped save hundreds of thousands of lives;

Whereas the World Health Organization's World Malaria Report 2009 reports that ''[i]n countries that have achieved high coverage of their populations with bed nets and treatment programmes, recorded cases and deaths due to malaria have fallen by 50%'';

Whereas the World Health Organization's World Malaria Report 2009 further states that ''[t]here is evidence from Sao Tome and Principe, Zanzibar and Zambia that large decreases in malaria cases and deaths have been mirrored by steep declines in all-cause deaths among children less than 5 years of age'';

Whereas continued national, regional, and international investment is critical to continue to reduce malaria deaths and to prevent backsliding in those areas where progress has been made;

Whereas the United States Government has played a major leadership role in the recent progress made toward reducing the global burden of malaria, particularly through the President's Malaria Initiative and the United States contribution to the Global Fund to Fight AIDS, Tuberculosis, and Malaria;

Whereas President Barack Obama said on World Malaria Day in 2009, ''It is time to redouble our efforts to rid the world of a disease that does not have to take lives. Together, we have made great strides in addressing this preventable and treatable disease... Together, we can build on this progress against malaria, and address a broad range of global health threats by investing in health systems, and continuing our work with partners to deliver highly effective prevention and treatment measures.'';

Whereas, under the new Global Health Initiative (GHI) launched by President Obama, the United States Government is pursuing a comprehensive, whole-of-government approach to global health, focused on helping partner countries to achieve major improvements in overall health outcomes through transformational advances in access to, and the quality of, healthcare services in resource-poor settings; and

Whereas recognizing the burden of malaria on many partner countries, GHI has set the target for 2015 of reducing the burden of malaria by 50 percent for 450,000,000 people, representing 70 percent of the at-risk population in Africa: Now, therefore, be it

Resolved, That the Senate—

(1) supports the goals and ideals of World Malaria Day, including the achievable target of ending malaria deaths by 2015;

(2) calls upon the people of the United States to observe World Malaria Day with appropriate programs, ceremonies, and activities to raise awareness and support to save the lives of those affected by malaria;

(3) recognizes the importance of reducing malaria prevalence and deaths to improve overall child and maternal health, especially in sub-Saharan Africa;

(4) commends the recent progress made toward reducing global malaria deaths and prevalence, particularly through the efforts of the President's Malaria Initiative and the Global Fund to Fight AIDS, Tuberculosis, and Malaria;

(5) welcomes ongoing public-private partnerships to research and develop more effective and affordable tools for malaria diagnosis, treatment, and vaccination;

(6) reaffirms the goals and commitments to combat malaria in the Tom Lantos and Henry J. Hyde United States Global Leadership Against HIV/AIDS, Tuberculosis, and Malaria Reauthorization Act of 2008 (Public Law 110–293);

(7) supports continued leadership and investment by the United States in bilateral and multilateral efforts to combat malaria as a critical part of the President's Global Health Initiative; and

(8) encourages other members of the international community to sustain and scale up their support and financial contributions for efforts worldwide to combat malaria.

ARTICLES OF IMPEACHMENT AGAINST JUDGE PORTEOUS

The PRESIDING OFFICER. The Chair submits to the Senate for printing in the Senate Journal and in the CONGRESSIONAL RECORD the amended replication of the House of Representatives to the Answer of Judge G. Thomas Porteous, Jr., to the Articles of Impeachment against Judge Porteous, pursuant to S. Res. 457, 111th Congress, Second Session, which replication was received by the Secretary of the Senate on April 22, 2010.

The amended replication of the House of Representatives is as follows:

CONGRESS OF THE UNITED STATES,
Washington, DC, Apr. 22, 2010.

Impeachment of G. Thomas Porteous, Jr., United States District Judge for the Eastern District of Louisiana, Amended Replication.

Hon. NANCY ERICKSON,
Secretary of the Senate, U.S. Senate, Washington, DC.

DEAR MS. ERICKSON: Enclosed please find the Amended Replication of the House of Representatives to the Answer of G. Thomas Porteous, Jr., to the Articles of Impeachment.

A copy of this letter and the Amended Replication will be served upon counsel for Judge Porteous today through electronic mail.

Sincerely,

ALAN I. BARON,
Special Impeachment Counsel.

IN THE SENATE OF THE UNITED STATES

Sitting as a Court of Impeachment

IN RE: IMPEACHMENT OF G. THOMAS PORTEOUS, JR., UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF LOUISIANA

AMENDED

REPLICATION OF THE HOUSE OF REPRESENTATIVES TO THE ANSWER OF G. THOMAS PORTEOUS, JR., TO THE ARTICLES OF IMPEACHMENT

The House of Representatives, through its Managers and counsel, respectfully replies to the Answer to Articles of Impeachment as follows:

RESPONSE TO THE PREAMBLE

Judge Porteous in his Answer to the Articles of Impeachment, denies certain of the allegations and makes what are primarily technical arguments as to the charging language that do not address the factual substance of the allegations. However, it is in Judge Porteous's Preamble that he sets forth his real defense and, without denying he committed the conduct that is alleged in the Articles of Impeachment, insists that nevertheless he should not be removed from Office.

At several points in his Preamble, Judge Porteous notes that he was not criminally prosecuted by the Department of Justice, the implication being that the House and the Senate should abdicate their Constitutionally assigned roles of deciding whether the conduct of a Federal judge rises to the level of a high crime or misdemeanor and warrants the Judge's removal, and should instead defer to the Department of Justice on this issue. Judge Porteous maintains that impeachment and removal may only proceed upon conduct that resulted in a criminal prosecution, no matter how corrupt the conduct at issue, or what reasons explain the Department's decision not to prosecute. Judge Porteous provides no support for this contention because there is none—that is not what the Constitution provides.

Indeed, the Senate has by its prior actions made it clear that the decision as to whether a Judge's conduct warrants his removal from Office is the Constitutional prerogative of the Senate—not the Department of Justice—and the existence of a successful (or even an unsuccessful) criminal prosecution is irrelevant to the Senate's decision. The Senate has convicted and removed a Federal judge who was acquitted at a criminal trial (Judge Alcee Hastings). The Senate has also convicted a Federal judge for personal financial misconduct (Judge Harry Claiborne) while at the same time acquitting that same Judge of the Article that was based specifically on the fact of his criminal conviction.[1] Thus, Judge Porteous's repeated references to what the Department of Justice did or did not do adds nothing to the Senate's evaluation of the charges or the facts in this case.[2]

Further, according to Judge Porteous, pre-Federal bench conduct cannot be the basis of Impeachment, even if that conduct consisted of egregious corrupt activities that was beyond the reach of criminal prosecution because the statute of limitations had run, and even if Judge Porteous fraudulently concealed that conduct from the Senate and the White House at the time of his nomination and confirmation. There is nothing in the Constitution to support this contention, and it flies in the face of common sense. The Senate is entitled to conclude that Judge Porteous's pre-Federal bench conduct reveals him to have been a corrupt state judge with his hand out under the table to bail bondsmen and lawyers. Such conduct, which, as alleged in Articles I and II, continued into his Federal bench tenure, demonstrates that he is not fit to be a Federal judge.

Finally, the notion that Judge Porteous is entitled to maintain a lifetime position of Federal judge that he obtained by acts that included making materially false statements to the United States Senate is untenable. Judge Porteous would turn the confirmation process into a sporting contest, in which, if he successfully were to conceal his corrupt background prior to the Senate vote and thereby obtain the position of a Federal judge, he is home free and the Senate cannot remove him.

ARTICLE I

The House of Representatives denies each and every statement in the Answer to Article I that denies the acts, knowledge, intent

or wrongful conduct charged against Respondent.

FIRST AFFIRMATIVE DEFENSE

The House of Representatives denies each and every allegation of this purported affirmative defense and further states that Article I sets forth an impeachable offense as defined in the Constitution of the United States.

SECOND AFFIRMATIVE DEFENSE

The House of Representatives denies each and every allegation of this purported affirmative defense, namely, that Article I is vague. To the contrary, Article I sets forth several precise and narrow factual assertions associated with Judge Porteous's handling of a civil case (the Liljeberg litigation), including allegations that Judge Porteous ''denied a motion to recuse himself from the case, despite the fact that he had a corrupt financial relationship with the law firm of Amato & Creely, P.C. which had entered the case to represent Liljeberg'' and that while that case was pending, Judge Porteous ''solicited and accepted things of value from both Amato and his law partner Creely, including a payment of thousands of dollars in cash.'' There is no vagueness whatsoever in these allegations. Article I's allegation that Judge Porteous deprived the public and the Court of Appeals of his ''honest services''—a phrase to which Judge Porteous raises a particular objection—could not be more clear and free of ambiguity as used in this Article, and accurately describes Judge Porteous's dishonesty in handling a case, including his distortion of the factual record so that his ruling on the recusal motion was not capable of appellate review.[3]

THIRD AFFIRMATIVE DEFENSE

The House of Representatives denies each and every allegation of the purported affirmative defense that Article I charges more than one offense. The plain reading of Article I is that Judge Porteous committed misconduct in his handling of the Liljeberg case by means of a course of conduct involving his financial relationships with the attorneys in that case and his failure to disclose those relationships or take other appropriate judicial action. The separate acts set forth in Article I constitute part of a single unified scheme involving Judge Porteous's dishonesty in handling Liljeberg. Further, the charges in this Article are fully consistent with impeachment precedent.[4]

FOURTH AFFIRMATIVE DEFENSE

The House of Representatives denies each and every allegation of this purported affirmative defense, which, in effect, seeks to suppress the statements of a highly educated and experienced Federal judge, made under oath, before other Federal judges. Judge Porteous was provided a grant of immunity in connection with his Fifth Circuit Hearing testimony, and the immunity order provided that his testimony from that proceeding could not be used against him in ''any criminal case.'' Simply put, an impeachment trial is not a criminal case.[5] Accordingly, there is simply no credible basis to argue that the Senate should not consider Judge Porteous's immunized Fifth Circuit testimony.

ANSWER TO ARTICLE II

The House of Representatives denies each and every statement in the Answer to Article II that denies the acts, knowledge, intent or wrongful conduct charged against Respondent.

FIRST AFFIRMATIVE DEFENSE

The House of Representatives denies each and every allegation of this purported affirmative defense and further states that Article II sets forth an impeachable offense as defined in the Constitution of the United States.

SECOND AFFIRMATIVE DEFENSE

The House of Representatives denies each and every allegation of this purported affirmative defense, namely, that the Article is vague. To the contrary, Article II sets forth several precise and narrow factual assertions associated with Judge Porteous's relationship with the Marcottes—both prior to and subsequent to Judge Porteous taking the Federal bench. Article II alleges with specificity the things of value given to Judge Porteous over time and identifies the judicial or other acts taken by Judge Porteous for the benefit of the Marcottes and their business.

THIRD AFFIRMATIVE DEFENSE

The House of Representatives denies each and every allegation of this purported affirmative defense, namely, that the Article improperly charges multiple offenses. The plain reading of Article II is that Judge Porteous engaged in a corrupt course of conduct whereby, over time, he solicited and accepted things of value from the Marcottes, and, in return, he took judicial acts or other acts while a judge to benefit the Marcottes and their business.

FOURTH AFFIRMATIVE DEFENSE

The House of Representatives denies each and every allegation of this purported affirmative defense, namely, that Article II improperly charges pre-Federal bench conduct as a basis for impeachment. First, Article II plainly alleges that Judge Porteous's corrupt relationship with the Marcottes continued while he was a Federal Judge. Second, Judge Porteous's assertion that pre-Federal bench conduct may not form a basis for impeachment finds no support in the Constitution and is not supported by any other sound legal or logical basis.[6] As a factual matter, it is especially appropriate for the Senate to consider Judge Porteous's pre-Federal bench corrupt relationship with the Marcottes where it was affirmatively concealed from the Senate in the confirmation process, where it involved conduct as a judicial officer directly bearing on whether he was fit to hold a Federal judicial office, and where that conduct, having now been exposed, brings disrepute and scandal to the Federal bench.

ARTICLE III

The House of Representatives denies each and every statement in the Answer to Article III that denies the acts, knowledge, intent or wrongful conduct charged against Respondent.

FIRST AFFIRMATIVE DEFENSE

The House of Representatives denies each and every allegation of this purported affirmative defense and further states that Article III sets forth an impeachable offense as defined in the Constitution of the United States.

SECOND AFFIRMATIVE DEFENSE

The House of Representatives denies each and every allegation of this purported affirmative defense, which alleges in substance that the allegations in Article III are vague. To the contrary, Article III sets forth several specific allegations associated with Judge Porteous's conduct in his bankruptcy proceedings. There is no credible contention that Judge Porteous cannot understand what he is charged with in this Article.

THIRD AFFIRMATIVE DEFENSE

The House of Representatives denies each and every allegation of this purported affirmative defense, which alleges, in substance, that Article III charges more than one offense. The plain reading of Article III is that Judge Porteous committed misconduct in his bankruptcy proceeding by making a series of false statements and representations, and by incurring new debt in violation of a Federal Bankruptcy Court order. This Article alleges a single unified fraud scheme, with the purpose of deceiving the bankruptcy court and creditors as to his assets and his financial affairs, so that Judge Porteous could enjoy undisclosed wealth and income for personal purposes—including gambling.

FOURTH AFFIRMATIVE DEFENSE

The House of Representatives denies each and every allegation of this purported affirmative defense, which, in effect, seeks to suppress the statements of a highly educated and experienced Federal judge, made under oath, before other Federal judges. Judge Porteous was provided a grant of immunity in connection with his Fifth Circuit Hearing testimony, effectively eliminating the possibility that any of that testimony could be used against him in any criminal case. An impeachment trial is not a criminal case. There is simply no credible basis to argue that the Senate should not consider Judge Porteous's immunized Fifth Circuit testimony.

FIFTH AFFIRMATIVE DEFENSE

The House of Representatives denies each and every allegation of this purported affirmative defense—which does not take issue with the proposition that Judge Porteous committed misconduct in a Federal judicial bankruptcy proceeding, but contends only that the acts as alleged do not warrant impeachment. First, this is not an affirmative defense. It is up to the Senate to decide whether the facts surrounding the bankruptcy warrant impeachment.

Second, the Senate has in fact removed a judge for personal financial misconduct, and in 1986 convicted Federal Judge Harry Claiborne and removed him from office for evading taxes. It is significant that the Senate did not convict Judge Claiborne for the crime of evading taxes. Rather, the Senate acquitted Judge Claiborne of the one Article that charged him with having committed and having been convicted of a crime.

Third, what the Department of Justice may consider material for purposes of a criminal prosecution has nothing to do with what the Senate may deem to be material for purposes of determining whether Judge Porteous should be removed from Office—an Office which requires that he oversee bankruptcy cases and administer and enforce the oath to tell the truth.'

ARTICLE IV

The House of Representatives denies each and every statement in the Answer to Article IV that denies the acts, knowledge, intent or wrongful conduct charged against Respondent.

FIRST AFFIRMATIVE DEFENSE

The House of Representatives denies each and every allegation of this purported affirmative defense and further states that Article IV sets forth an impeachable offense as defined in the Constitution of the United States.

SECOND AFFIRMATIVE DEFENSE

The House of Representatives denies each and every allegation of this purported affirmative defense, which alleges the Article is vague. The allegations sets forth in Article IV are specific and precise. In fact, Judge Porteous's description of the charge fairly characterizes the offense: ''In essence, Article IV alleges that Judge Porteous gave false answers on various forms that were presented in connection with the background investigation. . . .'' It is apparent, therefore, that Judge Porteous has a clear understanding of these allegations in Article IV, which specify the dates and circumstances

when the statements were made, and the contents of the statements that are alleged to have been false. There is no credible contention that the Article IV does not provide Judge Porteous specific notice as to what this Article alleges.

THIRD AFFIRMATIVE DEFENSE

The House of Representatives denies each and every allegation of this purported affirmative defense. The allegation sets forth in Article IV are specific and precise. They charge in substance that Judge Porteous made a series of false statements to conceal the fact of his improper and corrupt relationships with the Marcottes and with attorneys Creely and Amato in order to procure the position of United States District Court Judge. Charging these four false statements, all involving a single issue, in a single Article is consistent with precedent.[8]

FOURTH AFFIRMATIVE DEFENSE

The House of Representatives denies each and every allegation of this purported affirmative defense, alleging that the Senate cannot impeach Judge Porteous based on pre-Federal bench conduct. First, Judge Porteous's assertion that pre-Federal bench conduct may not form a basis for impeachment is not supported by the Constitution. Notwithstanding Judge Porteous's assertions to the contrary, the Constitution does not limit Congress from considering pre-Federal bench conduct in deciding whether to impeach, and there are compelling reasons for Congress to consider such conduct—especially where such conduct consists of making materially false statements to the Senate. The logic of Judge Porteous's position is that he cannot be removed by the Senate, even though the false statements he made to the Senate concealed dishonest behavior that goes to the core of his judicial qualifications and fitness to hold the Office of United States District Court Judge. The proposition that the Senate lacks power under these circumstances to remedy the wrong committed by Judge Porteous is simply untenable.

Respectfully submitted,

THE U.S. HOUSE OF REPRESENTATIVES

By

ADAM SCHIFF,
Manager,
BOB GOODLATTE,
Manager,
ALAN I. BARON,
Special Impeachment Counsel.

Managers of the House of Representatives: Adam B. Schiff, Bob Goodlatte, Zoe Lofgren, Henry C. ''Hank'' Johnson, F. James Sensenbrenner, Jr.

April 22, 2010.

ENDNOTES

[1] Judge Harry E. Claiborne was acquitted of Article III, charging that he ''was found guilty by a twelve-person jury'' of criminal violations of the tax code, and that ''a judgement of conviction was entered against [him].'' See ''Impeachment of Harry E. Claiborne,'' H. Res. 471, 99th Cong., 2d Sess. (1986) (Articles of Impeachment); 132 Cong. Rec. S 15761 (daily ed. Oct. 9, 1986) (acquitting him on Article III).

[2] Moreover, the Department of Justice's investigation hardly vindicated Judge Porteous. To the contrary, the Department viewed Judge Porteous's misconduct as so significant that it referred the matter to the Fifth Circuit for disciplinary review and potential impeachment, and set forth its findings in its referral letter.

[3] Judge Porteous treats Article I as if it alleges the criminal offense of ''honest services fraud,'' in violation of Title 18, United States Code, Section 1346, and that because the term ''honest services'' has been challenged as vague in the criminal context, the term is likewise vague as used in Article I. Despite Judge Porteous's suggestion to the contrary, Article I does not allege a violation of the ''honest services'' statute. Moreover, it could hardly be contended that proof that Judge Porteous acted dishonestly in the performance of his official duties does not go to the very heart of the Senate's determination of whether he is fit to hold office.

[4] The respective Articles of Impeachment against Judges Halsted L. Ritter, Harold Louderback, and Robert W. Archbald each set forth lengthy descriptions of judicial misconduct arising from improper financial relationships between those judges and the private parties. These consist of detailed narration specifying numerous discrete acts. See ''Impeachment of Judge Halsted L. Ritter,'' H. Res. 422, 74th Cong., 2d Sess. (March 2, 1936) and ''Amendments to Articles of Impeachment Against Halsted L. Ritter,'' H. Res. 471, 74th Cong., 2d Sess. (March 30, 1936), reprinted in ''Impeachment, Selected Materials, House Comm. on the Judiciary,'' Comm. Print (1973) [hereinafter ''1973 Committee Print''] at 188–197 (H. Res. 422), 198–202 (H. Res. 471); [''Articles of Impeachment against Judge Robert W. Archbald''], H. Res. 622, 62d Cong., 2d Sess (1912), 48 Cong Rec. (House) July 8, 1912 (8705–08), reprinted in 1973 Committee Print at 176; and [''Articles of Impeachment against George W. English,''] Cong Rec. (House), Mar. 25, 1926 (6283–87), reprinted in 1973 Committee Print at 162.

[5] The Constitution makes it clear that impeachment was not considered by the Framers to be a criminal proceeding. It provides: ''Judgment in Cases of Impeachment shall not extend further than to removal from Office, and disqualification to hold and enjoy any Office of honor, Trust or Profit under the United States: but the Party convicted shall nevertheless be liable and subject to Indictment, Trial, Judgment and Punishment, according to Law.'' U.S. Const., Art. 3, cl. 7. See also, *United States v. Nixon*, 506 U.S. 224, 234 (1993) (''There are two additional reasons why the Judiciary, and the Supreme Court in particular, were not chosen to have any role in impeachments. First, the Framers recognized that most likely there would be two sets of proceedings for individuals who commit impeachable offenses—the impeachment trial and a separate criminal trial. In fact, the Constitution explicitly provides for two separate proceedings. . . . The Framers deliberately separated the two forums to avoid raising the specter of bias and to ensure independent judgments . . .'').

[6] As but one example, if the pre-Federal bench conduct consisted of treason, there could be no credible contention that such conduct would not provide a basis for impeachment.

[7] It should be noted that Judge Porteous has testified and cross-examined witnesses at the Fifth Circuit Hearing on the subject of his bankruptcy, and the House therefore possesses evidence that was unavailable to the Department of Justice.

[8] As but one example, Article III of the Articles of Impeachment against Judge Walter Nixon charged that he concealed material facts from the Federal Bureau of Investigation and the Department of Justice by making six, specified, false statements on April 18, 1984 at an interview, and by making seven discrete false statements under oath to the Grand Jury. ''Impeachment of Walter L. Nixon, Jr.,'' H. Res. 87, 101st Cong., 1st Sess. (1989) (Article III).

ORDERS FOR MONDAY, APRIL 26, 2010

Mr. CASEY. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 2 p.m., Monday, April 26; that following the prayer and the pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and there be a period of morning business until 3 p.m., with Senators permitted to speak for up to 10 minutes each; that following morning business, the Senate resume the motion to proceed to S. 3217, Wall Street reform.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. CASEY. Mr. President, at 5 p.m., Monday, the Senate will proceed to a rollcall vote on the motion to invoke cloture on the motion to proceed to the Wall Street reform legislation.

ADJOURNMENT UNTIL MONDAY, APRIL 26, 2010, AT 2 P.M.

Mr. CASEY. If there is no further business to come before the Senate, I ask unanimous consent that it adjourn under the previous order.

There being no objection, the Senate, at 6:45 p.m., adjourned until Monday, April 26, 2010, at 2 p.m.

NOMINATIONS

Executive nominations received by the Senate:

DEPARTMENT OF DEFENSE

JONATHAN WOODSON, OF MASSACHUSETTS, TO BE AN ASSISTANT SECRETARY OF DEFENSE, VICE S. WARD CASSCELLS.

DEPARTMENT OF STATE

ROSE M. LIKINS, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF PERU.

LUIS E. ARREAGA-RODAS, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF ICELAND.

CONFIRMATIONS

Executive nominations confirmed by the Senate, Thursday, April 22, 2010:

THE JUDICIARY

DENNY CHIN, OF NEW YORK, TO BE UNITED STATES CIRCUIT JUDGE FOR THE SECOND CIRCUIT.

DEPARTMENT OF JUSTICE

WILLIAM N. NETTLES, OF SOUTH CAROLINA, TO BE UNITED STATES ATTORNEY FOR THE DISTRICT OF SOUTH CAROLINA FOR THE TERM OF FOUR YEARS.

WIFREDO A. FERRER, OF FLORIDA, TO BE UNITED STATES ATTORNEY FOR THE SOUTHERN DISTRICT OF FLORIDA FOR THE TERM OF FOUR YEARS.

DAVID A. CAPP, OF INDIANA, TO BE UNITED STATES ATTORNEY FOR THE NORTHERN DISTRICT OF INDIANA FOR THE TERM OF FOUR YEARS.

ANNE M. TOMPKINS, OF NORTH CAROLINA, TO BE UNITED STATES ATTORNEY FOR THE WESTERN DISTRICT OF NORTH CAROLINA FOR THE TERM OF FOUR YEARS.

KELLY MCDADE NESBIT, OF NORTH CAROLINA, TO BE UNITED STATES MARSHAL FOR THE WESTERN DISTRICT OF NORTH CAROLINA FOR THE TERM OF FOUR YEARS.

PETER CHRISTOPHER MUNOZ, OF MICHIGAN, TO BE UNITED STATES MARSHAL FOR THE WESTERN DISTRICT OF MICHIGAN FOR THE TERM OF FOUR YEARS.

LORETTA E. LYNCH, OF NEW YORK, TO BE UNITED STATES ATTORNEY FOR THE EASTERN DISTRICT OF NEW YORK FOR THE TERM OF FOUR YEARS.

NOEL CULVER MARCH, OF MAINE, TO BE UNITED STATES MARSHAL FOR THE DISTRICT OF MAINE FOR THE TERM OF FOUR YEARS.

GEORGE WHITE, OF MISSISSIPPI, TO BE UNITED STATES MARSHAL FOR THE SOUTHERN DISTRICT OF MISSISSIPPI FOR THE TERM OF FOUR YEARS.

BRIAN TODD UNDERWOOD, OF IDAHO, TO BE UNITED STATES MARSHAL FOR THE DISTRICT OF IDAHO FOR THE TERM OF FOUR YEARS.

IN THE COAST GUARD

COAST GUARD NOMINATIONS BEGINNING WITH JOANN F. BURDIAN AND ENDING WITH DAWN N. PREBULA, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 24, 2010.

COAST GUARD NOMINATIONS BEGINNING WITH KAREN R. ANDERSON AND ENDING WITH STEVEN M. LONG, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MARCH 10, 2010.

FOREIGN SERVICE

FOREIGN SERVICE NOMINATIONS BEGINNING WITH KAREN L. ZENS AND ENDING WITH RICHARD STEFFENS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 26, 2010.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION NOMINATIONS BEGINNING WITH SCOTT J. PRICE AND ENDING WITH SARAH K. MROZEK, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 22, 2010.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION NOMINATIONS BEGINNING WITH HEATHER L. MOE AND ENDING WITH KURT S. KARPOV, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 22, 2010.

WITHDRAWAL

Executive Message transmitted by the President to the Senate on April 22, 2010 withdrawing from further Senate consideration the following nomination:

TIMOTHY MCGEE, OF LOUISIANA, TO BE AN ASSISTANT SECRETARY OF COMMERCE, VICE PHILLIP A. SINGERMAN, WHICH WAS SENT TO THE SENATE ON DECEMBER 21, 2009.